

BIG BROTHER WATCH

**Big Brother Watch briefing
for Committee Stage of the
Procurement Bill**

29th June 2022

About Big Brother Watch

Big Brother Watch is a civil liberties and privacy campaigning organisation, fighting for a free future. We're determined to reclaim our privacy and defend freedoms at this time of enormous technological change.

We're a fiercely independent, non-partisan and non-profit group who work to roll back the surveillance state and protect rights in parliament, the media or the courts if we have to. We publish unique investigations and pursue powerful public campaigns. We work relentlessly to inform, amplify and empower the public voice so we can collectively reclaim our privacy, defend our civil liberties and protect freedoms for the future.

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INTRODUCTION

We welcome the opportunity to provide this briefing to the House of Lords ahead of the commencement of Committee Stage of the Procurement Bill on 4th July 2022.

Big Brother Watch has worked with senior parliamentarians from across the House of Lords to lay an amendment to the Procurement Bill that restricts procurement from companies that are involved in serious human right abuses.

Amendment

Page 101, line 43, at end insert—

“Serious human rights abuses 15A

(1) A discretionary exclusion ground applies to a supplier if a decisionmaker considers that there is evidence that the supplier is involved in serious human rights abuses in the United Kingdom or internationally.

(2) In this paragraph, “serious human rights abuses” includes but is not limited to—

- (a) war crimes,
- (b) crimes against humanity,
- (c) genocide,
- (d) forced sterilisation,
- (e) extrajudicial, summary or arbitrary executions, or
- (f) torture.”

The need for ‘serious human rights abuses’ debarment grounds

In the Green Paper ‘Transforming Public Procurement’, the Government set out key principles for public procurement in the UK: value for money, public good, transparency, integrity, equal treatment and non-discrimination.¹ In particular, the Green Paper stated that ‘public good’ should support the delivery of strategic national security priorities, public safety and ethics. Consistent with international

¹Green Paper: Transforming public procurement – GOV.UK, 6th December 2021: <https://www.gov.uk/government/consultations/green-paper-transforming-public-procurement>

practice, the Green Paper further emphasised that “public procurement is regularly leveraged to achieve social and environmental value beyond the primary benefit of the specific goods, services and capital”.

Accordingly, Big Brother Watch believes that the Procurement Bill is a key opportunity to ensure that public sector procurement promotes ethical and human rights standards in the UK and internationally. **However, the Bill currently contains no provisions that could disqualify suppliers associated with serious human rights abuses, which is a concerning omission.** The proposed amendment would address this obvious lacuna.

There is a precedent for designating certain acts as ‘serious’ human rights abuses that warrant additional responses from States. At international level, references to ‘serious’ abuses of human rights can be found in the Arms Trade Treaty and the Optional Protocol to the 1979 Convention on the Elimination of All Forms of Discrimination against Women, both of which the UK is a signatory to. A UN General Assembly resolution mandates the UN Human Rights Council to address situations of “violations of human rights, including *gross and systematic* violations, and make recommendations thereon.”² The Council of Europe Guidelines on Eradicating Impunity for Serious Human Rights Violations lists ‘serious violations’ of human rights, including extra-judicial killings and torture. There is a clear international understanding and precedent for nominating certain human rights violations as particularly ‘serious’. **The proposed amendment seeks to target companies involved in these most ‘serious’ violations of rights – those that should have no place in the UK’s public sector.**

The case for debarring Hikvision and Dahua

Hikvision and Dahua are Chinese state-owned surveillance companies. Both companies provide technology that is central to the regime of ethnic persecution of the Uyghur population in Xinjiang and both hold contracts to build and operate surveillance systems in the region.³ The Foreign Affairs Committee’s report on the UK’s responsibility to act on atrocities in Xinjiang, *Never Again*, concluded that **these companies were involved in “technology-enabled human rights abuses” and should be banned in the UK.**⁴

²General Assembly Resolution 60/251, 3 April 2006, para. 8 (emphasis added)

³Hikvision, Xinjiang, Uyghurs & Human Rights Abuses – IPVM, Conor Healy, 17th May 2022: <https://s.ipvm.com/uploads/eab3/fcde/Hikvision%20IPVM%20White%20Paper.pdf>; Dahua Operates China Police Surveillance – Charles Rollet, IPVM, 14th April 2021: <https://ipvm.com/reports/dahua-police>

The Government's response to the report in November 2021 stated: "The forthcoming Public Procurement Bill will further strengthen the ability of public sector bodies to disqualify suppliers from bidding for contracts where they have a history of misconduct, including forced labour or modern slavery" and that the Government was working to "enable commercial teams to more effectively exercise their discretion to exclude suppliers linked with modern slavery and human rights violations." This statement was repeated in response to a written parliamentary question on the use of "Chinese-made surveillance cameras" in the public sector in February of this year.⁵ **Whilst modern slavery is referenced in the Procurement Bill, human rights violations are not. There is no simple mechanism by which suppliers linked with serious human rights violations such as Hikvision can be rejected under this Bill.**

The US has already banned Hikvision and Dahua due to national security concerns.⁶ Additionally, the European Parliament has voted to remove Hikvision cameras from its buildings, citing "an unacceptable risk that Hikvision, through its operations in Xinjiang, is contributing to serious human rights abuses".⁷

Big Brother Watch's research has found that Hikvision and Dahua are widely used across the UK's public sector.

- **61% of our public bodies use Chinese-made CCTV (Hikvision or Dahua)**
- More than 10% of public bodies using this CCTV had advanced CCTV capabilities, including thermal scanning or facial detection
- 63% of schools, 66% of colleges and 54% of universities use Chinese-made CCTV
- 35% of police forces use Hikvision cameras
- **60% of NHS trusts use Chinese-made CCTV**

⁴ Never Again: The UK's Responsibility to Act on Atrocities in Xinjiang and Beyond, Second Report of Session 2021–22 – Foreign Affairs Committee, 29th June 2021, HC 198: <https://committees.parliament.uk/publications/6624/documents/71430/default/>

⁵ Written question: Lord Alton to Baroness Trafford, answered 22nd February 2022, UIN HL6066: <https://questions-statements.parliament.uk/written-questions/detail/2022-02-08/hl6066>

⁶ Congress passes bill banning new FCC equipment authorizations for Hikvision, Dahua and others – Joel Griffin, Security Info Watch, 29th October 2021: <https://www.securityinfowatch.com/video-surveillance/article/21243600/congress-passes-bill-banning-new-fcc-equipment-authorizations-for-hikvision-dahua-and-others>

⁷ EU Parliament Removes Hikvision, Citing Human Rights Abuses – Charles Rollet, IPVM, 29th April 2021: <https://ipvm.com/reports/hik-eu>

- 73% of local authorities use Chinese-made CCTV⁸

CONCLUSION

The Procurement Bill is a key opportunity to remove Hikvision and Dahua from the public sector, where they pose significant ethical and security concerns.

The Bill contains provisions for the creation of a centralised 'debarment list' (clause 59), which allows Ministers to prohibit suppliers from contracting with public bodies if they fall under certain exclusionary grounds (Schedules 6 and 7). However, a supplier's involvement with serious human rights abuses is not listed even as a discretionary ground for exclusion.

The proposed amendment would allow Ministers to debar companies, such as Hikvision and Dahua, who have proven involvement with the serious human rights abuses being committed in Xinjiang. The amendment could also be used to target companies based in other countries where the UK Government has expressed concerns over serious human rights abuses. The ability to debar Russian companies with a close involvement in the invasion of Ukraine is one example.

This amendment addresses an obvious gap in the Procurement Bill. It would ensure that public sector procurement in the UK has world-leading ethical standards, and that taxpayers' money is not funding serious human rights abuses anywhere in the world.

⁸Who's Watching You? The dominance of Chinese state-owned surveillance in the UK – Big Brother Watch, 7th February 2022, p. 8-9: https://bigbrotherwatch.org.uk/wp-content/uploads/2022/02/Whos-Watching-You_The-dominance-of-Chinese-state-owned-CCTV-in-the-UK-17746.pdf