Human rights mafia's 'junk research' exposed

17 May—If you were a member of Parliament, would you demand rigorous analysis of the allegations on whose strength you were asked to pass a law demanding economic sanctions against your nation's principal trading partner? Or would you succumb to bias, groupthink, partisan political manoeuvring, or the lazy appeal of pandering to the prejudices of a propagandised public for votes in an upcoming election?

Were they honest (at least with themselves), the members of the Australian Senate who last August voted in favour of independent Sen. Rex Patrick's "Customs Amendment (Banning Goods Produced By Forced Labour) Bill 2021" would have to give the latter answer. A paper published this week by independent Canberra-based analyst Jacqueline "Jaq" James shows that reports by prominent non-governmental organisations Amnesty International (AI) and Human Rights Watch (HRW) on alleged state-run forced labour programs in China, which helped induce the Senate to pass Sen. Patrick's bill, not only include no legally acceptable evidence upon which to base such serious charges, but also fail the most basic standards of academic rigour.[1]

In a previous paper published this January, Ms James had comprehensively debunked the Australian Strategic Policy Institute's (ASPI) influential February 2020 report *Uyghurs for Sale*.[2] Media, governments and human rights NGOs around the world had for two years unquestioningly accepted that report as proof that the Chinese government had enslaved large numbers of Uyghurs and other ethnic minorities from the Xinjiang autonomous region, to be used as forced labour in factories around the country. Ms James's painstaking legal analysis, however, demonstrated unequivocally that none of ASPI's evidence of human rights violations stood up to proper scrutiny. As the *Australian Alert Service* noted at the time, Jaq James is eminently qualified to deliver such an analysis: she holds a Bachelor of Laws (with Honours), along with Masters in both Public Policy and Education, and is soon to complete a Master of Laws specialising in international law at the Australian National University (ANU). She also speaks Mandarin and has a good understanding of China's culture and systems of governance, having studied and worked there for several years, including as a university lecturer.

As Ms James explains in the executive summary of her second paper, despite the ASPI report's obvious shortcomings, Sen. Patrick made it the "central reference point" of his rationale for a private member's bill he introduced to ban the importation of Uyghur-made goods into Australia. (Explicit references to Uyghurs were later removed to avoid a potential legal challenge by China at the World Trade Organisation; but the bill as amended would still target China in practice.) Tellingly, however, James reports that when she questioned him on the righteousness of his bill in light of her first paper's findings, "Senator Patrick did not deny that the ASPI report was an unreliable source, nor did he defend it; rather, he shifted the focus to 'many other sources'", including "the findings of 'human rights groups … around the world'" which had backed up his and ASPI's claims.

"Those other human rights groups Senator Patrick was referring to were likely Amnesty International and Human Rights Watch", writes James, "two 'powerhouse' institutions in the international human rights advocacy field" that had both published reports in 2021 accusing the Chinese government of systematic forced labour in Xinjiang. Therefore, in her second paper she subjects both reports to the critical analysis that Parliament hadn't bothered to do itself, and finds them wanting in every respect.

Mountains out of molehills

Amnesty International, writes James, "declared it had gathered evidence demonstrating the Chinese Government has carried out 'massive and systematic abuses' … in Xinjiang", which "amount to 'crimes against humanity' under Article 7 of the *Rome Statute of the International Criminal Court*, as well as other violations of international law, including laws against forced labour." AI asserted that "hundreds of thousands—perhaps one million or more … men and women from predominantly Muslim ethnic groups" had been detained in what it called "internment camps", and that furthermore there was "a clear compulsory labour component to the system of detention". It did so, however, on the basis of interviews with just "11 former detainees", only *four of whose testimony was excerpted in its report*. "In other words", notes James, AI "seemed to be claiming that maybe more than one million people in Xinjiang have been forced into labour … [yet] only featured testimony excerpts of around 0.0004 per cent of the potential victim pool."

Additional problems include that what little testimony the report does supply is anonymised—

supposedly to protect victims and their families from reprisals, but which also makes it impossible to authenticate. "Amnesty International and the interviewees knowingly made this credibility tradeoff, and, as such, have to accept any criticism that comes their way", James notes, especially given the European Court of Human Rights, for example, has explicitly "taken a stand against relying wholly, or to a decisive extent, on anonymous witnesses". There was also "no indication from Amnesty International that the interviewees provided actual sworn testimony, such as an affidavit that carries legal ramifications if false statements were made", while the organisation's own methods for corroborating its witnesses testimony are "arguably inadequate", James writes. All that readers are told "is that its testimonial evidence was 'corroborated by other reliable sources', with those sources merely being: (i) 'high-resolution satellite imagery to identify the facilities in which some former detainees reported being detained'; (ii) 'leaked Chinese government documents'; and (iii) 'other credible testimonial, photographic, and documentary evidence collected by journalists, scholars and investigators'." As she points out, however, being able to describe a facility denotes at best that the interviewee had at some point been assigned to it, not why or what happened there—and could otherwise be the result of having heard it described by a third party, or even from prior viewing of the satellite pictures.

The "leaked Chinese government document", or "telegram", cited in the report is not quoted directly but only *paraphrased* as stating that "if a *detainee* was designated ready for release, the group that did the final evaluation also determined whether the detainee would enter a '*skills improvement class*' for '*intensive training*' before being *released* (emphasis added)", James reports. Yet, an actual reading of the relevant passage "shows: (i) no mention of the word 'detainee', only the word 'student'; and (ii) no mention of the word 'release', only the word 'completion'." Meanwhile, she notes, the phrase "vocational skills education and training" appears repeatedly throughout, while the word "labour" appears just twice: once to state that students are not to "participate in labour outside of class"; and second to stipulate that training "should be based on the students' employment aspirations and the needs of society, and labour skills training should be carried out in a targeted manner to enable them to achieve employment as soon as possible". In other words, outside AI's apparently deliberate mistranslation there is no indication that the "internment camps" are anything but the education and training centres the Chinese government has always said they were. As for AI's "credible testimonial, photographic, and documentary evidence collected by journalists, scholars and investigators", Ms James submits that it is "too vague to be of probative value" given that it does not appear to be directly related to any of its 11 interviewees' allegations. Moreover, she notes, "given that the ASPI report was cited in the Amnesty International report as a credible reference, it can be assumed that Amnesty International did not critically engage with any of its other sources either."

Regarding AI's interview methodology, James notes that the report "only disclosed superficial aspects, such as that '[o]ral consent was obtained from each interviewee before the interview'; … and '[n]o incentives were provided to interviewees in exchange for their accounts'." What it does *not* provide, is any assurances that the interviews were conducted in such a way as to avoid "leading questions and fact-feeding" (such as "an appendix containing the list of questions that were put to the interviewees, or, even better, transcripts of the interviews", with redactions to preserve anonymity); that the witnesses were asked any "cross-examination-style questions" to determine if they were falsifying or exaggerating their statements; that any "theoretically and empirically grounded credibility assessment frameworks [such as are utilised by courts of law] were used to evaluate the reliability of interviewees' answers"; or that accredited translators had been used. "Given that [AI] has been in operation for over 60 years", James points out, "it would be expected that it already has its own theoretically and empirically grounded credibility assessment framework. If it does not have its own framework, the obvious question to ask is: why? If it does have its own framework, the obvious question to ask is: why is it not publicly available?"

The last problem Ms James points out with the AI report is that like ASPI's before it, it "allege[s] a systematic forced labour program run by the Chinese Government in breach of international law", but fails to "draw substantial connection between the asserted facts and the law on forced labour." Among other things, AI asserts that the so-called "internment camp detention process appears to be operating outside the scope of the Chinese criminal justice system or other domestic law", apparently to eliminate any possible application of exemptions in international humanitarian law for labour assigned via due legal process, as part or in lieu of a custodial sentence. Yet it also contradictorily asserts that deradicalisation programs in Xinjiang "provided the 'legal' cover for the government to expand its then-nascent internment camp in southern Xinjiang to the rest of the region" beginning March 2017—a tacit admission, as James notes, that the so-called internment camps do "technically operate inside the scope of China's domestic law" after all.

This is 'evidence'?

As for HRW, like AI it asserted it had gathered evidence indicting the Chinese government for "crimes against humanity" in Xinjiang under the Rome Statute. But whereas AI at least provided first-hand accounts, albeit substandard ones, HRW's "evidence" comprises just six *secondary* sources, namely: the now debunked ASPI report; a 2018 article from the *New York Times*; a 2019 article by Radio Free Asia (RFA); a 2020 report by the Fair Labour Association (FLA); a 2021 BBC article; and a "leaked" study from China's Nankai university.

Taking the last first, the Nankai University study discusses a poverty alleviation program; and far from

so much as implying "forced labour", it rather exhorts officials to exert "persistent measures" to *persuade* potential recruits to join. The BBC article likewise cherry-picks, apparently mistranslates, and presents out of context a quote from a young Uyghur woman, drawn from a *publicly broadcast documentary film* about a similar poverty alleviation program, to the same effect. The FLA, a Washington, DC-based NGO headed by a former Obama Administration assistant secretary of state, is actually a tertiary source, in that its own accusation of forced labour is sourced vaguely to "recent reporting" by yet another Washington NGO called the "Citizen Power Initiatives for China", which according to its website is "dedicated to a peaceful transition to democracy"—that is, regime change —in China. Hardly a reliable or impartial source! Nor for that matter is RFA, given that is an official propaganda organ of the US State Department. And the NYT article cites hearsay testimony from the head of a Kazakhstanbased NGO who claimed to have "interviewed relatives of ten inmates who had told their relatives they were made to work in factories"; hearsay and speculation from University of Washington lecturer Darren Byler, who as James notes was "an external referee of the ASPI report and approved [it] … despite its many errors"; an assertion by ASPI report coauthor Nathan Ruser, based on a *single satellite image*, that a building attached to an alleged "camp" is (A) a factory, with (B) forced labour going on inside; and alleged Chinese government documents which are not made available for thirdparty verification, and whose quoted passages do not necessarily imply forced labour anyway.

As Ms James summarises the case, both NGOs "failed to present sound research methodologies, reliable evidence and sufficient legal analysis, thereby leaving the forced labour narrative (and any proposed legislation built on top of the narrative) open to even greater doubt." Ms James suggests— and the *Australian Alert Service* emphatically agrees—that given they have stooped to publishing such "junk research", both NGOs should be considered to have forfeited any presumption of competence and dependability, and henceforth "must earn such repute on a report-by-report basis".

Footnotes

1. Jaq James, Amnesty International & Human Rights Watch's Forced Xinjiang Labour Claims: Junk Research or Noble Cause Corruption?, 16 May 2022. Read online or download at cowestpro.co/papers.html
2. "Independent legal analyst shreds ASPI's Uyghur 'forced labour' claims", *AAS*, 12 Jan. 2022. Ms James's first paper is also available at the web address in footnote 1.

By Richard Bardon, Australian Alert Service, 18 May 2022