

Impact case study (REF3)

Institution: University of Greenwich		
Unit of Assessment: 18 - Law		
Title of case study: Protecting and Promoting Human Rights in Public Supply Chains in the UK, Europe and around the globe		
Period when the underpinning research was undertaken: January 2014 - December 2020		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Olga Martin-Ortega	Professor of International Law	01/11/2012 – present
Opi Outhwaite	Senior Lecturer	01/01/2006 – 19/09/2018
Period when the claimed impact occurred: August 2013 – December 2020		
Is this case study continued from a case study submitted in 2014? N		
1. Summary of the impact		
<p>There are over 40 million people in modern slavery (24.9m in forced labour) producing goods and providing services through global supply chains. Martin-Ortega's work on public procurement, human rights and due diligence has been instrumental for the development, both in the UK and internationally, of public buyers' responsibilities towards the human rights of those working in their supply chains. Her research has had a decisive impact on national and international law and policy development (Pathway 1); UK and international public buyers' supply chain due diligence practices to prevent modern slavery and human rights abuses (Pathway 2) and civil society's efforts to promote transparency in the electronics industry, improve working conditions for thousands of workers and provide remediation for violations (Pathway 3).</p>		
2. Underpinning research		
<p>Public procurement accounts for 12% of GDP in OECD countries and 20-30% in developing countries. The public sector has great potential to influence business behaviours, for example by leading demand for responsibly produced and delivered goods and services. Historically, significantly more attention has been given to the behaviour of private businesses rather than the public sector.</p> <p>During the impact period Martin-Ortega's work has focused on human rights due diligence in supply chains. This includes the roles and obligations of public buyers towards those who produce the goods and services they buy. Her publications are among the first in the world to address the topic of public procurement and human rights [3.5, 3.4, 3.3], and her edited collection [3.1] remains the only volume specifically covering the subject. She has pioneered research at national and international level which has evidenced the incoherence in policy between private and public responsibilities despite the commonality between their supply chains which jeopardises states' compliance with their duty to protect and promote human rights. Martin-Ortega's work has demonstrated how public purchasing power can be harnessed to protect human rights in global supply chains [3.2, 3.3, 3.4]. Martin-Ortega's research has assisted public buyers in bringing their procurement practices into line with international business and human rights commitments (e.g. UN Guiding Principles on Business and Human Rights; Sustainable Development Goals). It has shown how corporate human rights due diligence can apply in public supply chains. Her research has provided: 1) the basis for using public procurement as a social policy tool for implementation of the state duty to protect human rights; 2) a theoretical framework for obligations on public buyers to identify, prevent, mitigate and remediate human rights violations in their supply chain; and 3) specific tools for public buyers to apply in their purchasing processes to address human rights including the imposition of supply chain due diligence and remediation. Her research has broad</p>		

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application to all global supply chains and human rights violations associated with them, but focused work has been devoted to the electronics supply chain as a model of how to mitigate and remediate health and safety risks and modern slavery [3.1, 3.5]. The exponentially expanding electronics industry currently accounts for approximately 18 million workers of which 80-90% have temporary contracts during peak production periods suggesting many are migrant workers vulnerable to exploitation. **Martin-Ortega's** research helped establish the basis for the creation and development of the international organisation Electronics Watch (EW) and its work with public buyers and their suppliers.

A small part of the underpinning research was conducted in collaboration with **Dr. Opi Outhwaite** at the University of Greenwich (2014-2016).

3. References to the research

[1] [Martin-Ortega & Methven O'Brien \(co-ed\)\(2019\), *Public Procurement and Human Rights: Risks, Dilemmas and Opportunities of the State as a Buyer* \(Edward Elgar\).](#)

ISBN:9781788116305. First and currently only book on specific topic. The publisher has requested a follow up volume.

[2] **Martin-Ortega** (2018), 'Public Procurement as a Tool for the Protection and Promotion of Human Rights: a Study of Collaboration, Due Diligence and Leverage in the Electronics Industry', *Business and Human Rights Journal* 3(1): 75-95. <https://doi.org/10.1017/bhj.2017.35>

[REF2 Submission - Identifier 19004]. Widely cited by scholars working on human rights, procurement, business and human rights and international organisations (OSCE, ILO) and civil society.

[3] **Martin-Ortega** (2017), 'Modern Slavery and Human Rights Risks in Global Supply Chains: The Role of Public Buyers', *Global Policy*, 8(4): 512-52. <https://doi.org/10.1111/1758-5899.12501>. Credited in the UK to have started the government and public sector buyers' attention to the topic.

[4] **Martin-Ortega, Outhwaite & Rook** (2015), 'Buying power and working conditions in the electronics supply chain: legal options for socially responsible public procurement', *International Journal of Human Rights*, 19(3): 341-368, <https://doi.org/10.1080/13642987.2015.1029295>. Served as a basis for the Electronics Watch model.

[5] **Martin-Ortega** (2014), "Human Rights Due Diligence for Corporations: From Voluntary Standards to Hard Law at Last?", *Netherlands Quarterly of Human Rights*, 32(1): 44-74. <https://doi.org/10.1177/016934411403200104>. Widely cited both at policy level, e.g. UN Special Rapporteur on Health (UN Doc. A/69/299, 2014, p.13, fn 36-37).

[6] [European Parliament, Directorate-General for External Policies \(June, 2020\), 'EU human rights due diligence legislation: Monitoring, enforcement and access to justice for victims'- Human Rights Due Diligence Legislation -Options for the EU: Briefing 2](#) (authored by Methven O'Brien & **Martin-Ortega**). Served as basis for the European Parliament position in the matter.

4. Details of the impact

Martin-Ortega's research on human rights due diligence [3.5, 3.6], public procurement and human rights [3.1, 3.2, 3.3, 3.4] and the electronics industry [3.2, 3.4] has led public procurement professionals, policy makers at national and international level to address their human rights' impact through three different pathways:

Pathway 1: Impact on public policy and normative developments: Shaping the roles and legal responsibilities of public bodies towards the human rights of those in their supply chain and mainstreaming human rights due diligence.

UK Parliament, Government and advisory bodies:

- Public Procurement Note-Tackling Modern Slavery in Government Supply Chains (PPN 05/19, **Cabinet Office**, September 2019) mandates all Central Government Departments, Executive Agencies and Non-Departmental Public Bodies to follow guidance expressly acknowledged to be based on her work [5.1].

- Influenced the government's own decision to publish its Modern Slavery Statement covering around £50 billion of annual spending (March 2020) [5.2], providing feedback on its draft to the **Home Office Modern Slavery Unit**.
- Instrumental in the [commitment by the UK government](#) (September 2020), to widen the scope of the Modern Slavery Act (2015) (MSA) to include public sector authorities among those having to produce a Modern Slavery Statement [5.2]
- Research referenced in policy development by **UK Joint Parliamentary Committee on Human Rights** [5.3] and the **UK Anti-Slavery Commissioner** [[website](#)].
- Work has been used by peers in the **House of Lords**, where she has participated in 4 discussions on modern slavery in public supply chains [5.4].
- Influenced the recommendations of the Independent Review of the MSA. Its Final Report 2019 recommended the review of the law as proposed in her research [5.4].

International:

- Policy Brief and presentation of recommendations (June 2020) [3.6] served as a basis of the **European Parliament's** recommendations to the Commission on corporate due diligence and corporate accountability for EU companies and companies operating in and from the single market [5.5; 5.6].
- Work referenced by **OECD** [5.9] and **OSCE** [5.8, Pathway 2]. [Speaker and chair](#) in the [International Conference on Tackling Modern Slavery, Forced Labour and Human Trafficking in Public Procurement in Supply Chains](#) (UK Government and OSCE Office of the Special Representative for Combating Trafficking in Human Beings, in partnership with governments of Australia, Canada, New Zealand, USA, ILO and OECD, March 2019), where international commitments and policy were established.
- Commissioned by the **ILO** to draft Policy and Advocacy strategy on Fair Labour Recruitment and Public Procurement (first draft delivered in 2020; launch postponed due to COVID).

Pathway 2: Impact on professional bodies, public sector agencies, practitioners and delivery of professional services: Changing organisation's policies and professionals' buying practices and development of specific tools to protect and promote human rights in their supply chain.

Higher Education Sector:

- Impact on professional practice through engagement and guidance **Higher Education Procurement Association (HEPA)** and **procurement consortia** LUPC and APUC [5.6; 5.7].
- Transformed sector's response to the MSA [**s. 54 Transparency in Supply Chains**] determining that universities fall within the scope of the law [3.3 & research briefs], propelling the publication of MS Statements [5.6].
- Provided model procedures for the production of MS statements by drafting LUPC's statement, producing HEPA Guidance (2018, updated 2019) and universities compliance reports ([Martin-Ortega & Islam, 2017](#); [Martin-Ortega & Krupinska, 2018](#)). LUPC's was the first Higher Education statement, prompting 155 universities to produce their statements corresponding to the following financial year (2017/2018), which were encouraged by HEPA's to refer **Martin-Ortega's** research in the drafting process [5.6]. The compliance reports are recognised as key tools by public procurement professionals; as one stated: *"I haven't looked at any other statements. I have looked at Olga **Martin-Ortega's** report [...]"* (Head of Procurement, University 28). *Some respondents described **Dr. Martin-Ortega's** work as akin to doing the benchmarking for the sector."* ([Rogerson et al., 'Organisational responses to mandatory modern slavery disclosure legislation: a failure of experimentalist governance?', *Accounting, Auditing & Accountability Journal*, 2020:1518](#)).
- Trained over 100 UK Higher Education public buyers (6 HEPA high level training sessions, London, Leeds and Edinburgh, 2017-2018) [5.6]

Local government:

- Drove local authorities to publish annual MS Statements on a voluntary basis, through her local authorities compliance reports ([Martin-Ortega, Gorna & Islam, 2018](#); [Martin-Ortega & Gorna, 2020](#)). Reporting by local authorities went from 33 in the financial year 2017/2018 to 140 in the financial year 2019/2020. **Local Government Association (LGA)** explicitly credits

Martin-Ortega for this increase and directly refers local authorities to her work when writing their statement [5.7]. The 2018 report “*gave the local government sector the impetus to make real progress and change, it benchmarked where the sectors was in terms of council activity and participation as well as acting as the catalyst for improvement which Olga has provided the leadership, guidance and support for others, including the LGA to follow and collaborate with*” [5.7]

- Defined local government practice for MS reporting. Her *Aide Memoire on Modern Slavery: Transparency in supply chains statements* (2018- downloaded over 750 times, 2020- downloaded over 300 times) is one of LGA’s most popular practical guidance [5.7].
- Trained 250 local authorities (LGA, 2020), which reported acquiring knowledge which will change their professional practices [5.7, including quotes from participants];

UK sector as a whole:

- Produced two guides for the **Chartered Institute of Procurement and Supply (CIPS)** (which has 45,000 members in public and private procurement) on protecting human rights in supply chains (2017) and MSA reporting (2019).
- Produced a free e-learning package undertaken by 500 UK public buyers via LUPC by December 2020 [5.6].
- Developed the supplier risk assessment and engagement tool Equiano, piloted with 75 public buyers including universities and local authorities (2018) [5.6; 5.7]. It served as basis for the government Modern Slavery Assessment Tool (MSAT) [5.2; 5.6; 5.7], used currently by nearly 50 public sector bodies supporting their engagement with over 1600 suppliers [5.7]. Equiano was shortlisted for a Green Gowns Award for Sustainability Excellence on Research with Impact (2019);
- Drafted Contract Performance Conditions for public procurement contracts for combating modern slavery in supply chains, currently being used by UK public buyers, including LUPC in its Cleaning and Security Services Framework Agreements, the City of London Corporation, and adapted by others, e.g. DEFRA [5.6];
- Organised Responsible Procurement Exchange Fora and Symposia bringing together over 100 public buyers over the years in these events (2014, 2015, 2017 and 2019- with the participation of the Czech and Slovak Ministries of Labour and their procurement professionals) to interact with peers, academics, civil society organisations and policy makers, widely influencing practice and leading to more responsible social procurement behaviours. Participants report these events impacted the way they address their human rights obligations [5.6; 5.7; 5.8].

International bodies and practice:

- Produced Guidance on Preventing Trafficking in Human Beings for OSCE procurement and programmatic staff (submitted in December 2019, originally to be published June 2020 but delayed due to COVID pandemic), serving as the base for the review of all OSCE internal procurement processes impacting practice in its 14 field missions [5.8].
- Developed two learning packages -in person and online- for OSCE staff [5.8] and trained over 40 professionals from 15 countries, including Serbia, Bosnia, Ukraine and Uzbekistan (April 2020; December 2020)
- Drafted the Electronics Watch’s (EW) Contract Conditions v. 1 (2015) and co-wrote v.2 with the law firm Clyde and Co. (2018), adapted and translated for the UK, Spain, Belgium, Germany and Australia’s legal system. EW’s 329 affiliates worldwide have committed to include them in all their procurement contracts for electronics products [5.10], e.g. LUPC National Apple Equipment and Services and National Desktop and Notebook framework agreements (2016 and 2017, allowing LUPC’s 70 members to establish direct engagement with their suppliers to improve the working conditions in specific factories) [5.6]
- Co-funded and currently coordinates the [International Learning Lab on Public Procurement and Human Rights](#), a community of practice with over 500 public buyers, academics and practitioners across the world.

Pathway 3: Impact on specific working conditions and labour rights of workers in the electronics industry: overall improvement of working conditions and remediation of abusive recruitment violations which put workers at risk of modern slavery:

Relying in the Contract Conditions drafted by and based on **Martin-Ortega's** research, the international civil society organisation **Electronics Watch and local worker rights representatives** to access factories have (2015-2020):

- Engaged directly with 8 electronics brands have engaged to improve working conditions in the factories in which components are produced and/or products assembled its affiliates
- Verified improvements to 10 factories [[EW Annual Report, 2019](#); **5.10**]
- Forced the implementation of measures to improve the health and safety conditions in a factory in Indonesia where workers were suffering respiratory illnesses through exposure to the toxic cleaning solvent toluene (2019), including replacing it with less toxic alternative, ethyl acetate; repairing ventilation system; providing workers with more effective protective equipment;
- Obtained remediation for 10,570 workers in debt bondage in factories in Thailand (2019) including devolution of own passports and work permits; full reimbursement of recruitment fees (the largest single company settlement of migrant worker recruitment fees ever) and the cessation of migrant workers hiring until an ethical recruitment policy had been approved to prevent future violations; and
- Obtained remediation and improvements to conditions of 30 migrant workers in forced labour at a semi-conductor supplier in Malaysia (2018-2019), including reimbursements for illegal wage deductions and back-wages.

Based on her work on transparency in the electronics industry, negotiated an engagement agreement with the **Responsible Business Alliance** (representing the largest electronics brands) to provide access to factories, sharing of brand auditing reports and participation in design and implementation of corrective actions plans. **Martin-Ortega** chaired their first engagement meeting (Dec 2019) and participated in negotiations all through 2020 [**5.10**].

5. Sources to corroborate the impact

- [1] UK Cabinet Office, [Procurement Policy Note 05/19: Tackling Modern Slavery in Government Supply Chains and Guidance](#), "Tackling Modern Slavery in Government Supply Chains. A Guide for Commercial and Procurement Professionals" 19 Sep. 2019 (p. 29 for acknowledgement to her work as a basis).
- [2] Testimonial: Amir Fareed, Director of the Home Office Unit of Modern Slavery Prevention.
- [3] UK Joint Parliamentary Committee on Human Rights, Inquiry on Business and Human Rights, [Human Rights and Business 2017: Promoting responsibility and ensuring accountability](#) (reference to recommendations by the International Learning Lab (co-written by Martin-Ortega).
- [4] Testimonial: Baroness Young of Hornsey, cross bench peer at the House of Lords.
- [5] Testimonial: Raphaël Glucksmann, Member, European Parliament; Rapporteur, Committee Foreign Affairs.
- [6] Testimonial: Andy Davies, Procurement Manager, Natural History Museum; member of the Board of Trustees of EW; former Director, LUPC
- [7] Testimonial: Guy Head, Local Government Improvement and Development, LGA.
- [8] (a) Testimonial: Valiant Richey, Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Organization for Security and Co-operation in Europe (OSCE); (b) Testimonial, Niamh Mercer, Head of Procurement Unit, Secretariat, OSCE
- [9] Testimonial, Pauline Göthberg, National Coordinator and Head of Unit, National Secretariat for Sustainable Public Procurement, Swedish County Councils and Regions, former Project Lead, OECD Public Procurement and Responsible Business Conduct Programme.
- [10] Testimonial, Björn Claeson, Director of Electronics Watch.