



PERCEPTIONS

Policy Brief

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The impact of UK immigration policies on the anti-modern slavery agenda

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Executive Summary

With 69% of referrals to the UK's modern slavery identification and support system coming from non-UK nationals,ⁱ **modern slavery appears to be closely linked to international migration**. Indeed, while historical slavery was abolished, **systems of exploitation have remained** that 'reflect an industrialised and increasingly globalised world where the migration of labour – almost half of it female – to new, strange contexts makes it more vulnerable to enslavement'.ⁱⁱ Yet, if the two phenomena are connected, **the UK approached them in contrary ways**.

With the **Modern Slavery Act 2015**, the UK sought to take an **internationally leading role** in the fight against modern slavery, putting it on the global policy agenda and enacting a landmark piece of legislation to address it. At the same time, the UK continued to intensify its **criminalising approach to immigration**. Yet, as we show in this policy brief, **hostile immigration policies** that restrict entry to the UK and limit the legal, economic and social rights on migrants, including asylum seekers and survivors of modern slavery, **have created vulnerabilities for people to fall into or remain in exploitative situations** that undermine the success of the Modern Slavery Act.

To effectively address modern slavery, **a victim-centred approach is needed** that shifts the focus **from rescue to prevention** by implementing **human rights based immigration policies** that mitigate the vulnerabilities leading individuals to exploitation, and by placing **more emphasis on the role of businesses and financial institutions**.

In 2022, **Home Secretaries have framed survivors of modern slavery as 'abusers'** and trafficking as a matter that should be dealt with through stronger immigration enforcement. Modern slavery was therefore moved away from the minister for safeguarding to the minister for immigration in the Home Office. As these **criminalising approaches to immigration and modern slavery** continue to grow to new levels in the UK as well as in other European countries, it is important to highlight **their impact on the increase of exploitative and undermining of international efforts to combat modern slavery**. This brief contributes to this effort for highlighting **research-informed policy alternatives**.

Introduction

In 2015, the UK enacted the Modern Slavery Act, a landmark piece of legislation aiming **to address slavery, servitude, forced labour and human trafficking**.ⁱⁱⁱ This strategy follows on the adoption of the UN 2000's **Palermo Protocol on human trafficking**,^{iv} which led to the creation of the **National Referral Mechanism (NRM)**, a system designed to identify and support victims of trafficking.

Contrary to European legislation, which primarily focuses on 'trafficking in human beings', growing evidence of the existence of forms of exploitation **other than trafficking for sexual exploitation** led the UK to choose 'modern slavery' as an **umbrella term encompassing slavery, servitude, forced and compulsory labour and human trafficking**.^v

The Modern Slavery Act aims to:

- **Bring together existing offences** into a single act
- Ensure that **perpetrators** receive suitably severe **punishments** for modern slavery crimes
- Enhance the court's ability to put **restrictions on individuals** where it is necessary to protect people from the harm caused by modern slavery offences
- Create an **Independent Anti-Slavery Commissioner** to improve and better coordinate the response to modern slavery
- Introduce a **Statutory Defence** to protect victims from being prosecuted for certain crimes that they may have been compelled to commit as a direct result of being a victim
- Place a **duty** on the secretary of state to **produce statutory guidance on victim identification and victim services**
- Enable the secretary of state to make **regulations relating to the identification of and support for victims**
- Make **provision for independent child trafficking advocates**
- Introduce a new **reparation order** to encourage the courts to compensate victims where assets are confiscated from perpetrators
- Enable law enforcement to **stop boats where slaves are suspected of being held or trafficked**
- Require **businesses** over a certain size to **disclose** each year **what action they** have taken to ensure there is no modern slavery in their business or supply chains

Modern slavery

refers to a situation of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power. It includes forced labour, debt bondage, forced marriage, slavery and slavery-like practices, and human trafficking.

The Act was described by its proponents as '**world-leading**' and the UK sought to play an international role on tackling the issue, allocating **£200 millions of aid** to address modern slavery globally.^{vi} With the Modern Slavery Act and its related strategy, the UK indeed contributed **to put the issue on the public and policy agendas** and to **set up processes** to address it. Yet, the Act received mixed-assessments, being **criticised for its emphasis on the criminalisation of individual traffickers and lack of full and long-term support for victims**.^{vii}

Furthermore, the **anti-immigration agenda** (including the **hostile environment policies**) implemented at the same time, has been shown to **undermine the fight against modern slavery**, for it **neglects and compounds 'both the employment situations that lead to exploitation and the barriers that exist to maintain that exploitation'**.^{viii}

In this brief, we **summarise the effects of these conflicting agendas** and put forward **policy recommendations**, building on **32 in-depths interviews** with frontline third-sector practitioners, policy experts and law enforcement representatives working in the field of migration and modern slavery, conducted in 2020 as part of the **EU-funded PERCEPTIONS project**.

Hostile environment

Set of administrative and legislative policies implemented since 2012 by the Home Office, which aims at making life in the UK as difficult as possible for those without a leave to remain.

Research findings

Overall, the modern slavery and trafficking experts and practitioners interviewed as part of this research saw the **Modern Slavery Act as a step in the right direction** and a good policy on paper. The UK's use of the umbrella term 'modern slavery' was seen as adequate to cover **all the different forms of exploitation**. The NRM created a much-needed **infrastructure to identify and protect victims**, and the fact that it can be entered through different ways (e.g., social workers, local authority, CSO representatives) was highlighted as particularly helpful.

Key issue

The UK's hostile immigration policies undermine the success of the modern slavery agenda by creating vulnerabilities to exploitation

The formal framework for identification and support created by the Act resulted in a **recovery and reflection period** being set out and allows for victims to **better understand their rights**. Progress has been made in terms of **victimless prosecution**, avoiding building cases that are heavily reliant on survivors having to go through the criminal justice system. The **Section 45 Defence** also gave people who have been forced into criminal activity a defence they can raise, which has notably been helpful for Vietnamese nationals forced to work on cannabis farms.

However, experts and practitioners highlighted a real **contradiction between the UK's modern slavery agenda and its approach to immigration**, as criminalising migrants, including asylum seekers, limiting legal pathways to the UK and reducing access to legal, economic and social rights were seen to provide traffickers and exploiters with additional ways to put pressure on victims and to prevent these survivors from seeking support from the authorities.

The UK **hostile environment** policies were seen as undermining the UK's efforts to tackle modern slavery and trafficking, by **creating vulnerabilities** for people to fall into exploitative situations that we summarise below.^{ix}

- **Lack of legal pathways for low-waged workers and lack of access to a legal status**

Modern slavery experts explain that the **lack of pathways for low-waged workers** to come and work in the UK is a real oversight, as it **leaves the way for traffickers to fill the gaps**. As legal options to come to the UK are very limited, many people think that it is either they stay in their country of origin, have no

money and cannot provide for their family, or they leave and take the risk of being exploited.

It is really short sighted of the UK government to think people won't come if you close that door and say there is no low skilled route, because ultimately people will find another way, and those jobs exist for those individuals, so it doesn't make sense. And without having that clear route, that safe migration pathway, you then open up opportunities for gangs, organised groups to close that gap. Or people find their own way and don't find the systems of protection that they need, making them become increasingly vulnerable to exploitation. (Anti-trafficking policy expert)

The **only option** given to them by the authorities upon arrival is to **seek asylum**, which would likely lead them to be returned. Thus, many people **choose to stay 'under the radar'** and **live undocumented**, which makes them vulnerable to exploitation. Once in an exploitative situation, people **cannot report it to the authorities** as it will most likely mean being sent back to a country where they have accumulated debts that they would not be able to repay by working in that country, thus putting them and their families at risk. Indeed, even after being identified as a victim of modern slavery, individuals are **not provided with long-term guarantees in terms of right to remain or protection**.^x

You arrive in the UK, you're smuggled, you come here for a better life, and actually you quickly realise that better life isn't a better life because you are being exploited. But you have that choice [...]: 1) You accept the exploitation you are facing because it means you will be able to send some money back home to your family, and you will also be able to pay back for the debt your family have accrued as a result of sending you on that journey; Or, 2) you go to the UK authorities and say 'look, this is what I thought was gonna happen and actually I found myself exploited and I don't want to go home, because if I go home I'm going to be chased because I'll be faced with the debt'. Once you start that journey of seeking the authority's help, you can't stop it. Unless you then decide to disappear again, and the reality is you go back under the radar into that same exploitative situation. (Police officer in modern slavery unit)

- **Short-term and spouse visa, limited work permits and criminalisation of the asylum process**

Short-term migration schemes and visas that are linked to one employer, such as the **Seasonal Workers Pilot Visa Scheme** or the **Overseas Domestic Worker** visa create high levels of **dependence** and **chances to become undocumented**, which increases vulnerabilities to violence, abuse and exploitation. Similarly, **spouse visas, which are tied to one's partner**, can be used as a to trap migrant wives into domestic servitude.

Short-term visa subjected to the **No Recourse to Public Funds (NRPF)** condition are also important vulnerability factors, as people on these schemes have no options to resist exploitation and no remedies. This creates a real **imbalance of power between the employer and the employee**.

No Recourse to Public Funds

Condition imposed on persons with limited leave to remain preventing them from accessing certain public funds (e.g., benefits, homelessness assistance, social housing)

The same is observed with people coming on a study visa who have a **restriction on the number of hours they can work**, as some end up working in the informal economy or in a situation of **debt bondage** to be able to cover their student fees. For **asylum seekers, not being allowed to work** and

having to live on a very limited support also creates vulnerabilities to exploitation, as people have **no other choice but to work in the grey economy**. Similarly, **the absence of right to work for people going through the NRM** can push people back into exploitative situations. **Traffickers may use these restrictive immigration policies** to keep people working for them.

Because of the restrictions in the UK, because most can't work, so it can drive people into exploitative work because they are not able to survive. Asylum support is very small support so that would be another casualty because people seeking protection can end up very vulnerable to exploitation. (Anti-trafficking policy expert)

We did a round table with a group of survivors of exploitation in the UK a couple of years ago and asked them their opinion on the UK government response, and [...] one of the policy recommendations they made to us was that the inability to work while going through the NRM has really undermined their recovery, they can't support themselves, they don't have access to funds. It doesn't do what the NRM was set out to do. (Anti-trafficking policy expert)

● Fear and mistrust of the authorities

The **raid and rescue operations** on nail salons or cannabis farms are seen to create a hyper surveillance of Vietnamese migrants in the UK, which has **pushed them even more underground**. A lot of people who are in exploitative situations **do not trust the police**. This is because of negative experiences with corrupt police in their country of origin, but also because they are **'terrified' and 'petrified' of the Home Office** due the power it holds on their life, as a former police officer mentioned. It is considered to be 'in the public interest for the police to share information about individuals suspected of being immigration offenders with the Home Office in pursuit of both bodies' functions'.^{xi} Yet, this **data-sharing obligation complicates the work of the police** and can **damage the trust** they intend to build with the victims. It also leads to people choosing to remain in exploitative situations, as they see it as a better option than being returned to a country where they will be facing debts and poverty. Thus, it produces **extensive lags in reporting exploitation**, as individuals keep their experiences to themselves until they face a threat of deportation.^{xii}

Once that person realises what has happened to them isn't legitimate, if they have restrictions on their visa, or they don't have a sort of status here, then there is a real fear of going to the law enforcement, or reporting what's happening, you wouldn't know where to report, and the traffickers really play into that and say you've got no papers so where are you gonna go? And they just lock you up, or they can take someone's papers. (Anti-trafficking policy expert)

● Difficulty to identify victims and for victims to identify themselves as such

Another challenge faced by civil society organisations and by the police relates to the **rescue approach** of the modern slavery agenda. This approach can **impede identification and prosecution**, as it reflects a **Eurocentric viewpoint** that does not always reflect people's reality: making a living for themselves and their family that is **comparatively better than what they would make back home**.

We talk about victims, but someone who has arrived in the UK who has taken up a job for £3.50 an hour and works in poor conditions, speak to them and they'll go 'I know what the minimum wage is, but 3.50 is better than the 2 pounds I would be getting back in my home

country. The conditions are bad from a UK perspective, but actually I'm quite happy, just leave me alone [...] I'm supporting my family, I am really not a victim'. (Police officer in modern slavery unit)

Furthermore, this approach does not take into account the **complexity of exploitation mechanisms**, where **victims can be suspects and suspects can be victims**. People who have willingly decided to pay criminal networks to come to the UK and have been exploited by a criminal network may end up exploiting others as they find themselves trapped into very complicated situations.

With modern slavery there is no such thing as a pure victim or even a pure suspect. Because there is no absolute. You can enter - so you come to the UK from wherever and you find yourself in exploitation: you are a victim. But you've made that choice, so all of a sudden your victim status would be questioned because you've made some decisions about what has ultimately happened to you. You find yourself in exploitation and you're given a bit of an opportunity to work with your exploiters by exploiting the others. So you move from victim to suspect albeit to protect yourself from being exploited. (Former police officer in modern slavery unit)

- **Lack of emphasis on labour market exploitation**

Some experts indicated that the Modern Slavery Act had adverse effects, as it did **not go far enough in tackling labour market exploitation**. One common criticism was **the lack of scrutiny, enforcement of compliance, and incentive and support for businesses to comply with the obligation to publish an annual statement** setting out the steps they take to prevent modern slavery in their business and supply chains.

Section 54, the Modern Slavery Act piece that looks at mandatory reporting, the huge gap there is that there is no penalties, there is nothing around to incentivise businesses to comply and wanting to do the right thing. I think that was short-sighted to assume that businesses would just start doing the right thing because they had to report. Basically, it just doesn't have the impact they were hoping. (Anti-trafficking policy expert)

Recommendations

This brief demonstrated that the **restrictive and criminalising immigration policies** implemented in the UK in parallel to the Modern Slavery Act **undermine the goal of the Modern Slavery Act by creating additional vulnerabilities for people to fall into modern slavery and trafficking**. There is no consideration of the impact of the Modern Slavery Act and the Immigration Act on one another, leading to the **immigration policies creating a scenario that gives exploiters additional tools in which to control and coerce those that are being exploited**. The Modern Slavery Act has a limited impact because of the dual situation in which people in exploitation are: they do not want to be exploited but they cannot report it if they do not want to draw the attention of the authorities on their legal status. The **risk for people reporting** that they are experiencing modern slavery is to be **deported and to find themselves in another unsafe position**, back in a country where they may be unable to work, reach a decent standard of living, or have to face human rights violations.

Here, we highlight policy recommendations that aim to further the modern slavery agenda through a **victim-centred approach to modern slavery** that moves beyond a focus on criminal justice to take into

account the vulnerabilities leading individuals to exploitation and the reasons why people want to take opportunities to work overseas. This involves a **rethinking of immigration policies** and an **increased focused on the role of businesses and financial institutions**:

1. Create legal pathways to the UK, including visas for low-waged workers and the possibility to apply for asylum in countries of origin and transit, in order to facilitate circular migration and provide alternatives to smuggling and trafficking routes.

2. Facilitate access to and renewal of forms of leave to remain in order to avoid people becoming undocumented. This includes 1) providing more flexibility for individuals to change employers, stay in the country while looking for new work, and switch between different types of visa (e.g., spouse, student, work), 2) streamlining the process and 3) reducing the costs for obtaining or renewing a form of leave to remain. Granting amnesties would also allow reducing the number of persons living without documents, thus reducing the numbers of people trapped in modern slavery situations because they are undocumented.

4. Grant persons identified as victims of modern slavery increased support, leave to remain and the right to work to avoid creating the precarious conditions leading many people back into exploitative situations.

3. Implement a strict separation between the modern slavery reporting process and immigration enforcement to reduce fears of criminalisation and deportation, guarantee their right to report being victims of a crime, and reduce as much as possible the duration for which individuals are exploited.

5. Decriminalise migration by limiting detention and forced removal, and scraping hostile environment policies and the NRPF condition, providing full access to economic and social rights to people who have no or short-term leave to remain, to avoid them falling into exploitative situations.

6. Prioritising prevention over rescue by placing the responsibility on governments, banks and businesses to create an environment less conducive to human trafficking. This entails making it harder for human traffickers to operate (not being able to move money freely, sell products with no question asked or subcontract as they want). Better support businesses to tackle modern slavery and trafficking in their supply chains via financial support, guidance and shared best practices, but also by mechanisms that force them to look into it and comply. As many businesses relying on modern slavery have moved online (e.g., brothels using Airbnb or sex workers using webcam) and use virtual currencies such as bitcoins, making their money much more difficult to trace, legislation on virtual currency is also needed that pushes to more transparency to facilitate the work of law enforcement agencies on trafficking investigations.

7. Increase collaboration between sectors and countries. The work of the police is important to identify victims of modern slavery and trafficking, dismantle and prosecute criminal networks that exploit individuals. However, this issue needs to be addressed in collaboration with other organisations such as NGOs, who can start building trust and find alternatives that help these people escape these situations. Collaboration is also needed internationally. Joint investigation teams are seen as particularly successful, not only because of the joint prosecution but also for the opportunity to get a better understanding of the experience of certain communities in their country of origin. Being seconded by police officers from other countries is also seen as really useful to understand the cultural context and process investigations more effectively.

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For more information

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References

- ⁱ UK Government. (2022). Modern Slavery: National Referral Mechanism and Duty to Notify statistics UK, end of year summary, 2021. <https://www.gov.uk/government/statistics/modern-slavery-national-referral-mechanism-and-duty-to-notify-statistics-uk-end-of-year-summary-2021>
- ⁱⁱ Craig, G. (2017). The UK's Modern Slavery Legislation: An Early Assessment of Progress. *Social Inclusion*, 5(2), 16–27, p.18.
- ⁱⁱⁱ UK Government. (2015). Modern Slavery Act. <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>
- ^{iv} United Nations. (2000). Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ^v Walk Free Foundation. (n.d.). What is modern slavery <https://www.walkfree.org/what-is-modern-slavery/>
- ^{vi} ICAI. (2020). The UK's approach to tackling modern slavery through the aid programme. <https://icai.independent.gov.uk/html-version/tackling-modern-slavery-through-the-aid-programme/>
- ^{vii} Broad, R., & Turnbull, N. (2019). From Human Trafficking to Modern Slavery: The Development of Anti-Trafficking Policy in the UK. *European Journal on Criminal Policy and Research*, 25(2), 119–133.
- ^{viii} Lightowlers, C., Broad, R., & Gadd, D. (2022). Temporal measures of modern slavery victimisation. *Criminology & Criminal Justice*, p.14.
- ^{ix} See Bowling, B., and Westernra, S. (2020). A really hostile environment: Adiaphorisation, global policing and the crimmigration control system, *Theoretical Criminology*, 24(2), 163–183; Gadd, D., and Broad, R. (2018). Troubling recognitions in British responses to modern slavery, *British Journal of Criminology*, 58(6), 1440–1461.
- ^x Schwartz, K., and Geng, J. (2018). Reasserting agency: Procedural justice, victim-centricity and the right to remedy for survivors of slavery and related exploitation. *Journal of Modern Slavery* 4(2), 93–120.
- ^{xi} National Police Chiefs' Council. (2022). Information sharing with the Home Office where a victim or witness of crime is a suspected immigration offender, p.4.
- ^{xii} Lightowlers et al., 2022.



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