

Parliamentary briefing, July 2014

## The Modern Slavery Bill: The Missing 'P's' - Prevention & Protection

### Summary

Experts in the field of human trafficking place central importance on the 'three Ps' first set out in the UN Human Trafficking Protocol (2003) as an effective framework for combating modern slavery: prevention, protection and prosecution. The Modern Slavery Bill presents a rare opportunity to comprehensively address the problem of human trafficking and forced labour. However, the Bill is narrowly focused on criminal justice issues, with minimal provision for prevention and the protection of victims. Without prevention and protection, the two core planks of the 'three Ps' response, efforts to eradicate modern day slavery will fail.

### Key Recommendations

The Modern Slavery Bill should include measures to **prevent** trafficking and forced labour abuses by providing for a **strong labour inspection system** as a first line of defence against labour exploitation.

The Modern Slavery Bill should **protect** victims by adopting a **broader approach to justice** that extends beyond prosecutions and prioritises protection for victims.

### Prevention

UK efforts to prevent trafficking to date have been patchy and prevention is only addressed in the Modern Slavery Bill in the limited context of general criminal deterrence (through Slavery and Trafficking Prevention and Risk Orders). Critically, the International Labour Organisation emphasises the importance of labour inspectors 'to provide early warnings before instances of forced labour and trafficking become entrenched practices of abuse'<sup>1</sup>. The Gangmasters' Licensing Authority (GLA) is the UK's only pro-active labour inspectorate working to prevent and identify incidences of trafficking for labour exploitation however its mandate extends to only a small number of labour sectors. Since 2010, the GLA has seen its resources, remit and scope greatly reduced. The remainder of the UK's labour inspectorates<sup>2</sup> have also seen reductions in budget and scope. As a result, an ever-increasing portion of the UK labour market is unregulated and ripe for exploitation.

### Recommendation

The Modern Slavery Bill should include measures to **prevent** trafficking and forced labour abuses by providing for a **strong labour inspection system** as a first line of defence against labour exploitation:

#### ***Monitor labour standards and strengthen the labour rights of vulnerable workers***

- a) The recent decision<sup>3</sup> to relocate the GLA in the Home Office risks diverting it from its primary function of licence monitoring as a means of ensuring compliance with labour standards and preventing trafficking for labour exploitation towards an over emphasis on criminalisation and immigration enforcement.

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<sup>1</sup> ILO, 2010, Labour Inspection in Europe: undeclared work, migration, trafficking. p.31. Available at [http://www.ilo.org/labadmin/info/pubs/WCMS\\_120319/lang--en/index.htm](http://www.ilo.org/labadmin/info/pubs/WCMS_120319/lang--en/index.htm)

<sup>2</sup> Made up of the Health and Safety Executive, the National Minimum Wage Inspectorate and the Employment Agencies Standards Inspectorate,

<sup>3</sup> See Written Statement to Parliament by Karen Bradley MP, 10.04.14. Available at <https://www.gov.uk/government/speeches/gangmasters-licensing-authority>

### ***Reinstate powers to labour inspectorates and enforce employment law***

- a) The reduction in scope and powers of UK labour inspectorates should be reversed - employment law must be enforced to prevent trafficking for labour exploitation.
- c) The GLA should have the power to enforce payment of unpaid wages and other payments due to exploited workers through 'repayment orders'.

### ***Regulate high-risk labour sectors***

- a) The remit of the GLA should be expanded to include 'high-risk' sectors, at a minimum, construction, care, cleaning and hospitality. An expanded GLA should be re-situated as a non-departmental public body under the Department for Work and Pensions.

### ***Ensure immigration responses do not contribute to trafficking for labour exploitation***

- a) To prevent trafficking for labour exploitation, all migrant workers should be entitled to employment law protections regardless of immigration status.

### **Protection: Access to justice**

Access to justice for trafficked persons is fundamental to a victim-centred response to human trafficking or 'modern day slavery'. The ability of victims to access legal remedies promotes their rehabilitation, prevents re-trafficking and contributes to the punishment of traffickers. Thus far a commitment to victims' legal rights has been entirely absent from UK law and policy, and is reflected in the government's failure to collect and publish data on legal remedies for victims. The Modern Slavery Bill presents a rare opportunity to provide victims with comprehensive and effective access to justice.

There are currently substantial barriers to victims' access to justice, including: lack of clarity and awareness of avenues to compensation; limited access to legal assistance, notably absent prior to referral and positive identification as a trafficking victim under the National Referral Mechanism (NRM); lack of secure immigration status; and inability to appeal NRM decisions.

### **Recommendation**

The Modern Slavery Bill should **protect** victims by adopting a **broader approach to justice** that extends beyond prosecutions alone and prioritises protection for victims.

#### ***Provide clear avenues to compensation***

- a. The Bill should provide victims with the right to compensation and avenues for pursuing such compensation
- b. The criminal injuries compensation scheme should be amended to ensure victims of trafficking can access compensation
- c. All official service providers should have knowledge of the legal rights of victims and should be required to inform and assist victims to access compensation

#### ***Provide a right to appeal or otherwise challenge negative NRM decisions.***

#### ***Ensure potential victims have immediate and effective access to legal assistance***

- a. The Bill should ensure victims are provided with legal assistance prior to referral into the NRM
- b. Legal aid should be available for all challenges to NRM decisions and for applications to the Criminal Injuries Compensation Authority.

#### ***Law and policy should clearly provide for leave to remain for victims of trafficking, including on grounds of their personal circumstances.***

<b>Contact:</b> Caroline Robinson, Policy Director, Focus on Labour Exploitation
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<b>E-mail/Tel:</b> <a href="mailto:carolinerobinson@labourexploitation.org">carolinerobinson@labourexploitation.org</a> / 07788230310
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