

APPG on Human Trafficking and Modern Slavery

The Impact of the Nationality and Borders Bill Roundtable

Virtual Roundtable of Parliamentarians & Anti-Trafficking NGOs 3rd November 2021

Rt Hon Karen Bradley (Co-Chair) opened the meeting by thanking NGOs for joining the roundtable to discuss the potential impact of the Nationality and Borders Bill with the APPG on Human Trafficking and Modern Slavery.

Summaries of Concerns

Tamara Barnett (HTF) The Human Trafficking Foundation has been helping coordinate the sector, in an effort to present a unified message on Part 4 of the Nationality and Borders Bill with the help of Lord Coaker and Rt Hon Karen Bradley MP. The Comms Group have written a [letter](#) signed by 65 CEOs and Directors of NGOs in the sector and are looking at media engagement including an article in Conservative Home. The Research and Evidence Group have produced Rights Lab's publication of evidence. The Devolved Administrations Group has been led by The Scottish Refugee Council. Moreover, there are four Amendment Groups; the first looking at clauses 46 and 48, the second looking at disqualification and clause 51 and disqualification, a group led by Justice and Care looking at support clauses and a final group leading on the causes concerning legal aid.

James Fookes (ATMG) Talked on the probing amendments at Committee Stage on clauses 46, 47 and 48 around lowering thresholds of Reasonable Grounds Decisions and amendments to clause 51 around softening disqualification to protection.

Phillipa Roberts (Hope for Justice) concerns around clause 51 include creating a dangerous environment of having deserving and undeserving victims of crime. This has an impact on ECAT and wider international law. Hope for Justice are looking at improving the clause, not based on criminal offenses but from the perspective that this should only be considered in exceptional circumstances. GRETA and Reprieve have done a briefing on this and there is a draft amendment that could be put forward at report stage.

Kate Garbers (Rights Lab, Nottingham University) noted how clauses 46 and 47 do not account for the impact of trauma and reflect a conflation between immigration and trafficking processes. There is a question on whether we should we take forward identification amendments? Removal of the deadline of compliance, ensuring that credibility wouldn't be damaged because of late disclosure. Amendments haven't been taken forward, but there were some reassurances offered that cases would be considered on a case-by-case basis. Clause 48 would exacerbate the problem of low NRM referrals and may harm justice efforts.

Committee Stage amendments haven't been taken forward, and there are still unanswered questions in relation to these clauses that weren't answered in the debate:

- When will statutory guidance be published?
- Will training be provided around changes to Reasonable Grounds decisions for First Responders?
- Will there be an update on Places of Safety?

Louise Gleich (Justice and Care) observed that clauses 52 and 53 aren't adequate and there are concerns around the narrow criteria of support based on needs arising from harms of exploitation. It is hard to distinguish between pre-existing vulnerability and vulnerability arising from exploitation. Does not offer support after victims who have been given a Conclusive Grounds decision, although long term support enables victims to engage with prosecutions and it is critical to get the support right.

Tabled amendments by Labour frontbench in Committee Stage include post NRM support post Conclusive Grounds amendments about length of time you should get Leave to Remain. The Government arguments are around providing clarity and a needs-based approach tailored for each victim – however it is very unclear what will happen in reality. Need to protect survivors from re-trafficking - amendment at Report Stage with Iain Duncan-Smith.

Patricia Durr (ECPAT) ECPAT's main focus is that provisions for children have not been taken into account in Part 4, which has also been raised by Anti-Slavery Commissioner and the UN Rapporteur on Slavery in evidence to the Committee. ECPAT have been working on probing amendments to remove children from provisions. The response from the Government has been that there doesn't need to be special provision for children. Also concern around age assessments which will have huge impact on children. The current review of the Modern Slavery Strategy seems like a more fitting place for Part 4.

Discussion to identify where the Government have been robust in their response and where they have indicated there is more flexibility.

Kate Roberts (FLEX) observed that discussions around fraudulent claims and the abuse of the system have dominated in Committee Stage and calls for the Government to evidence this. Looking at Government responses to the debate on abuse of the system what they have talked about is an increase of referrals from immigration detention. In this dialogue what is not considered is the detaining victims of modern slavery and that the First Responders in detention are Home Office officials identifying victims.

Kamena Dorling (Helen Bamber Foundation) noted the difficulty of trying to analyse a Bill that is going to put into statutory guidance, this makes robust analysis hard. Within the Committee discussion there was no real response to concerns about legal aid. In terms of clause 53 case by case decision making already happens and we currently have delays and survivors not being given Leave to Remain.

Baroness Elizabeth Butler-Sloss (Co-Chair) noted how the issue of credibility underlies this debate and concerns that migrants are going to use the Modern Slavery Act to enter the UK. How do we deal with the issue of credibility?

Nick Herbert (Salvation Army) agrees that the NRM needs reform; the waiting times for a Conclusive Grounds Decisions mean is now over 500 days for a decision and statutory bodies do not understand their role as First Responders. This Bill will not help with either prosecution or support for survivors.

Tatiana Gren-Jardan (Justice and Care) noted how engagement with Ministers is difficult as they believe the Nationality and Borders Bill is going to work and will result in victims being identified earlier and be able to better access support. Must consider what is the appetite amongst Conservative MPs? It is not productive to preach to the converted, instead there is a need to win over some minds in the Conservative Party. Tatiana noted that claims from detention are mostly raised at the point of removal which is concerning for the Government. However, this problem is

small, and there is no evidence that they aren't victims of Modern Slavery. NGOs must push for more engagement with media, to end the common conflation of small boat crossings and trafficking in order to change what constituents want not just Parliamentarians.

Tamara Barnett (HTF) can send a summary of what the Government has said during Committee Stage and advised Parliamentarians to look at Rights Lab research for evidence and case studies from NGOs.

Within the Committee debate the Government kept using the phrase 'case by case.' The Opposition said if credibility is damaged by missing a date, victims will not come forward, similarly with clause 51 – if a victim has a criminal conviction, they will not come forward in the first place and there will be nothing to look at case by case. Traffickers will capitalise on this and tell victims they will not have a case.

The Opposition also pushed back around speed clauses, which may create more bureaucracy. The police are seeing victims going into the NRM and don't ask for support, so NGOs aren't seeing them in our support services – but the police are witnessing these in the NRM and are potentially fraudulent victims. If waiting periods were short - cases wouldn't be thrown out by CPS. Keeping it to 45 days will resolve issues the police are seeing.

Maya Foa (Reprieve) On clause 51 said that the Public Protection Order in guidance and ECAT allows the Government to remove those who pose a threat to national security, however the Government shouldn't be able to not investigate whether someone is a victim of trafficking and deport someone due to a criminal sentence - this is not 'case by case'.

Catherine Meredith (Doughty Street Chambers) said all evidence points to the fact that there isn't a misuse of the system and also remarked on the legislative choice to put trafficking in an immigration Bill.

Phillipa Roberts (Hope for Justice) noted that Hope for Justice can provide evidence on late disclosure and raised the case study of Operation Fort. She also spoke on the urgent need for standalone legal aid provision, particularly in light of Brexit.

Reflections from Parliamentarians

Lord John Randall noted the lack of cohesion in the Commons and suggested a focus on the impact of British victims.

Rt Hon Karen Bradley MP (Co-Chair) gave an update on the Parliamentary process.

Baroness Elizabeth Butler-Sloss (Co-Chair) closed the meeting by noting that she was particularly concerned over issues of children in the Bill. In the Lords evidence will be needed on legal grounds of the Bill, evidence on late disclosure and medical evidence to form a basis for putting forward amendments. Elizabeth remarked on the need to consider amendments that the Government hasn't been absolutely firm on, otherwise they won't pass in the Commons. Elizabeth and John to talk to the Minister in the Lords to see if there is any progress. Ultimately it must be reiterated that the eventual decision will be in the Commons.

