

Human Trafficking Foundation Evidence
Nationality & Borders Bill¹ Committee
September 2021

About the Human Trafficking Foundation (HTF)

- a) This written evidence has been submitted by the Human Trafficking Foundation.
- b) The Human Trafficking Foundation is a UK registered charity and limited company, established in 2010. The Foundation's primary aim is to communicate to parliamentarians, policy makers and lead statutory agencies on the rapidly changing realities of human trafficking, as witnessed by those working on the ground. Our purpose in so doing is to inform and shape future policy while ensuring that existing policy is effectively enforced. To these ends, we carry out a series of activities which involve Members of Parliament, NGOs, law enforcement agencies and other actors committed to fighting human trafficking across the UK and in Europe.
- c) The Human Trafficking Foundation (HTF) came out of the APPG on Human Trafficking and Modern Slavery and was set up by a group of cross Party Parliamentarians. It is currently Chaired by Anthony Steen CBE, with Trustees including both Co-Chairs of the [APPG](#) on Modern Slavery and Human Trafficking, former Minister for Slavery, the Rt Hon Karen Bradley and Baroness Butler Sloss, alongside Lord John Randall, Lord Vernon Coaker and the Rt Hon David Heathcoat-Amory.
- d) Our work includes:
 - Shaping policy and acting as a conduit between NGOs and policy makers;
 - Supporting the sector by working closely with key organisations fighting human trafficking;
 - Raising public awareness about modern day slavery;
 - Identifying new opportunities and establishing best practices;
 - Providing the Secretariat for the All Party Parliamentary Group on Trafficking and Modern Slavery.
 - HTF also sits on the Modern Slavery Ministerial Core Group and is the Co-Chair/Lead of the Home Office's Victim Support Group.
- e) The Foundation also holds monthly NGO Advisory Forums, attended by on average 150 stakeholders from the anti- trafficking sector. It also holds quarterly meetings of the National Network Coordinators' Forum (NNCF).² This is a meeting of Coordinators of the UK's regional anti- slavery partnerships and comprises over 30 multi-agency regional partnerships sharing best practice, supporting new partnerships and identifying gaps. HTF also leads on antislavery partnership work in London and set up and runs the Capital's antislavery partnership, the London Working Group (LWG),³ made up of Local Authorities, NGOs, legal and other experts. HTF also set up, acting in the role of secretariat, partnering with London Councils (host) and Enfield Council (as Chair), a group⁴ for the slavery leads working in all 32 London councils - the first of its kind and recognised as best practice by the sector.
- f) HTF has published a range of reports and tools, including the first reports to look at the lack of post National Referral Mechanism (NRM) support, such as [Life Beyond the Safe House](#) and [Day 46](#); and then involved 25 organisations to write the first [report](#), specifying recommendations on sustainable support in

¹ <https://publications.parliament.uk/pa/bills/cbill/58-02/0141/210141.pdf>

² [NNCF — Human Trafficking Foundation](#)

³ [LWG — Human Trafficking Foundation](#)

⁴ [LMSL — Human Trafficking Foundation](#)

2017 which was then utilised in the creation of Lord McColl's Victim Care Bill. HTF's most recent [report](#) was published earlier this year on the impact of Brexit

- g) HTF has also created tools including the [Modern Slavery Protocols](#) that serve as a practical resource for Local Authorities. By way of another example, the lack of awareness of UK services led to HTF creating the sector's first [Mapping tool](#) of location of services nationwide, now adopted by the Police's Modern Slavery Transformation Unit.
- h) HTF has also written reports for key organisations i.e. HTF co-wrote the [Best Practice Councils Guide](#) for the LGA as well as a the modern slavery guide for staff at the Citizens Advice Bureau. HTF has also looked at the experience of returning victims to their country of origin, co-writing a [report](#) with the IOM; and also wrote for the Romanian Parliament a [report](#) on the experience of victims of trafficking returning from the UK to Romania.
- i) The Foundation has also written a series of standards. These include the Trafficking Survivor Care [Standards](#), publicly launched in June 2015, and adopted by the government in their new Victim Care Contract in 2020, which aims to provide a blueprint for UK-wide service providers offering high quality care to adult survivors of modern slavery, including trafficking. HTF also co-wrote with The Red Cross, ATLEU and the ATMG a best practice set of [standards](#) around support pre-NRM in light of the government commitment to create 'places of safety' for victims before they enter the NRM.
- j) HTF also works to raise the voice of smaller organisations, grassroots groups and survivors. HTF partnered with Survivors Alliance and Hestia in 2019 to set up the first London Survivor Group. HTF's newsletter goes out to 1000 stakeholders within the sector and includes now a survivor voice section. HTF also runs a Victim Fund (a small emergency fund we provide for survivors) and our casework support to statutory organisations in London also feeds into our work and we continue to proactively identify and bring into the sector service user-led organisations.
- k) HTF has also provided oral evidence to the Home Affairs Select Committee on its review on modern slavery, the Modern Slavery Bill Committee, the GLA Police and Crime Committee review on modern slavery, the Bright Blue Review into Human Rights, and was asked to provide evidence for the then shelved final report of the Home Affairs Select Committee review on Prostitution, sex trafficking and sex work.
- l) The Foundation played a pivotal role in developing the Modern Slavery Act 2015 (MSA 2015) and more recently its Trustees succeeded in spearheading an [independent Government review](#) of the effectiveness of the Act in 2019 involving three HTF trustees. Our Chair Anthony Steen was invited to coordinate the civil society responses and our Trustee Lord Vernon Coaker was invited to coordinate the parliamentary response. Presently HTF has been coordinating around 40 NGOs around our collected and individual responses (including PQs, amendments, press and advocacy) to Part 4 (Modern Slavery) of the Nationality and Borders Bill, with Lord Vernon Coaker and the Rt Hon Karen Bradley connected to this group in their roles as APPG members.

Evidence

Overview

1. HTF recognises that the Government has a mandate to address immigration; in fact, alongside elements of the National Referral Mechanism, NRM⁵, we believe the immigration system is rife with delays and dysfunction and needs a radical overhaul. HTF understands that the Government has a genuine desire, broadly supported by UK residents, to address these concerns, many of which have existed for decades. However, what may not be fully understood, is that the way that the Bill is presently drafted, it risks failing to stop the dysfunction and abuse of the asylum and NRM systems and, instead, could perversely increase the criminality and exploitation committed in or targeted at the UK. It could also raise costs by creating further delays as well as court fees spent due to much of the section on modern slavery contradicting ECAT⁶ and other related legislation.
2. HTF is pleased that the Government recognised in its response to its consultation on its New Plan for Immigration that it might need to modify elements of the plan to avoid unintended repercussions that the sector, including the Independent Anti-Slavery Commissioner (IASC)⁷ had raised. Below, HTF has highlighted key 'by-product' concerns this Bill on Borders may have on victims of modern slavery, and how these might be mitigated.
3. The Commissioner has also highlighted in her response⁸ that there was a worrying absence of data to evidence some of the most central underlying claims that motivate the Bill's direction, such as that the NRM is being abused by hardened criminals. While such abuse is absolutely something that should be addressed, it should also be recognised that conversely, more commonly, the sector (including the police inspectorate) sees victims mistakenly criminalised⁹ and hardened criminals already using immigration rules as a threat to control victims.¹⁰ The disqualification Clause 51 risks, along with earlier Clauses 46-8 that affect identification and impede entry to the NRM, reducing the number of victims that feel able to come forward, which will have a knock-on effect in reducing prosecutions. It will also increase the likelihood of victims with certain vulnerable characteristics - such as addiction and being a petty criminal or entering the UK illegally - being targeted. This Bill needs to be honed to address the abuse it describes while not worsening the challenges so many victims already face.
4. However much of the Bill is unclear – with those experts even working in the justice system sometimes having to second guess some elements of the Bill in meetings that HTF has held for the sector on this Bill. HTF welcomes the Government's desire to address slavery but still believes that ideally - a bill looking at immigration should not incorporate a whole chapter on modern slavery,

⁵ The Government system that formally identifies victims of slavery, via referrals from first responders, and provides outreach support or safe house support. <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guidance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales#:~:text=Ireland%20is%20available.-,1.,involve%20multiple%20forms%20of%20exploitation>.

⁶ Council of Europe Convention on Action against Trafficking in Human Beings CM 8414 ([publishing.service.gov.uk](https://www.publishing.service.gov.uk))

⁷ Independent Anti-Slavery Commissioner - Dame Sara responds to the Nationality and Borders Bill (antislaverycommissioner.co.uk)

⁸ Ibid

⁹ HMICFRS Report, 2017 [stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf](https://www.hmicfrs.gov.uk/stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf) ([justiceinspectorates.gov.uk](https://www.justiceinspectorates.gov.uk)) and [1196 criminal exploitation report 2020 v0 13w.pdf](https://antislaverycommissioner.co.uk/1196-criminal-exploitation-report-2020-v0-13w.pdf) (antislaverycommissioner.co.uk)

¹⁰ IOM report, 2019 [migrants and their vulnerability.pdf](https://www.iom.int/migrants-and-their-vulnerability.pdf) ([iom.int](https://www.iom.int))

when the two are only tenuously correlated.¹¹ This point is something the Conservative Government and Home Office itself has recognised¹² in the last decade - as the UK became a world leader and authority across the globe on modern slavery - and in doing so, led initially under Theresa May and continued thereafter, has therefore been working for the last decade to separate the two. This is, for example, demonstrated in more recent times by this Government's welcome creation of the Single Competent Authority,¹³ replacing the UKVI's role in assessing foreign national victims of slavery in the NRM.

5. Not only has this country become a world leader in understanding the exploitation of foreign nationals, it also leads the world in recognising the modern slavery of its own British born nationals – be it girls exploited by groups of men (for example the cases involving so-called 'grooming gangs'), children exploited in criminal exploitation by criminal gangs (for example in 'county lines'), or vulnerable and homeless adults abused in labour exploitation by criminal families. As a result, the vast majority¹⁴ of victims now identified in the UK are British. Yet this legislation, named the 'Nationality and Borders Bill' at points appears to conflate smuggling and human trafficking – two very different crimes, one against the state, another against an individual, - but in so doing, not only impacts on foreign national victims of modern slavery, but also has a disproportionate effect on British victims. Indeed, many of the changes will also impact British cases, in particular due to the Bill currently legislating that *all* victims of slavery, who have committed certain crimes *even under duress* as part of their exploitation, will be denied support as a victim under the NRM. The data suggests that possibly the vast majority of British victims of modern slavery would fall under the present Bill's disqualifying remit as the majority of cases¹⁵ involving British victims involve criminal exploitation, and even those that fall under labour exploitation or child and adult sexual exploitation data often participate in criminal activities as part of their exploitation¹⁶ and so may end up being 'unworthy', under the clauses of the present Bill, of support or recognition as a victim.

Clauses on identification of victims of modern slavery

Merging immigration with slavery - Clause 46

6. As mentioned above, smuggling and human trafficking are very different activities. The NRM is not an immigration process and the NRM decision is purely about exploitation – hence why the UKVI were removed from being involved in the NRM decision-making process by the Conservative Government. Yet the new proposed trafficking information notice combines and so conflates the

¹¹ Although this can be mitigated by ensuing all guidance around this Bill, related to modern slavery, is placed in the modern slavery guidance and not this Bill's guidance, which could otherwise cause confusion

¹² See Home Office Oppenheim review, 2014 [review of the national referral mechanism for victims of human trafficking.pdf](#) ([antislaverycommissioner.co.uk](#))

¹³ [SCA_PIN_20.04.2021.pdf](#) ([publishing.service.gov.uk](#))

¹⁴ [NRM Statistics](#) of 10,613 potential victims identified last year 3,788 were UK Nationals

¹⁵ [ibid](#)

¹⁶ i.e. Emily Vaughn's "Enslaved: My true story of survival" speaks of her abuse at the hands of 'sex grooming gangs' and also her involvement in child criminal exploitation by adults working with drugs.

Immigration and NRM processes, taking the UK a step back from the ten-year direction of travel the Government had previously been on, to detach the two¹⁷.

7. Immigration and modern slavery can however converge in some *cross border* human trafficking cases, in particular involving foreign nationals (though it is worth noting that British nationals can also be exploited cross border, for example Sweden¹⁸ wrote a report to the UK in 2010, effectively complaining that vulnerable British - often formerly homeless or with SEN - nationals were being trafficked by UK based traveller gangs to Sweden to be exploited in labour trafficking cases).
8. In foreign national cases, victims can often be forcibly taken to the UK,¹⁹ but also some victims have chosen to come to the UK but are then tricked and forced into exploitation during the journey or when they arrive, for example to repay a supposed unexpectedly incurred 'debt'.²⁰
9. Foreign national victims' experiences can also collide with immigration because receiving a conclusive grounds decision from the NRM, unlike an asylum decision, does not in the vast majority of cases, result in being given leave to remain. Therefore, many are pushed into using the asylum system to access a few years leave to remain so they can stay for example to apply for compensation and have more time in the UK to rebuild their lives. However, many in our sector recognise that the asylum system is not really geared to why victims of trafficking may need to stay in the UK, and so manoeuvring a victim of modern slavery's case through the asylum process is often described as pushing a square peg through a round hole.
10. While the NRM may be abused by a small number of fraudulent claims trying to extend their stay in the UK, the NRM recovery and reflection period is only meant to last 45 days. The fact that in reality it takes 452 days to receive a conclusive grounds decisions²¹ is something that causes despair in most survivors the antislavery sector works with.²² Survivors and NGOs alike would welcome speeding up this decision-making process. However, introducing a trafficking information notice and so converging immigration with human trafficking risks creating another layer of bureaucracy and so would likely increase the length of time survivors must wait in the NRM.

Conflating late self-identification of slavery with fraudulent claims - Clause 46-8

11. The Trafficking Information Notices will require many foreign national victims of trafficking to self-identify and communicate that they are a victim of slavery within a fixed time period, with a failure to do so or late declaration seen as damaging the individual's credibility.
12. HTF understands the Government's concern that some referrals may be fraudulent and are made only to lengthen and complicate their immigration application and frustrate any removal.

¹⁷ See Home Office review, 2014 [review of the national referral mechanism for victims of human trafficking.pdf](#) ([antislaverycommissioner.co.uk](#)) ; see also [SCA PIN 20.04.2021.pdf](#) ([publishing.service.gov.uk](#))

¹⁸ GLA Conservatives - Shadow City 2013 [Microsoft Word - Shadow-City-v2.docx](#) ([kalayaan.org.uk](#)). Also referred in 2011 article: [British men trafficked abroad by slave gangs | The Times](#)

¹⁹ **Which underscores the sector's concern regarding earlier parts of the Bill which will penalise how asylum seekers enter the UK – victims of trafficking often have little to no choice in how they enter, so shouldn't be penalised on these grounds.**

²⁰ [Harrowing Journeys](#) ([iom.int](#))

²¹ [Independent Anti-Slavery Commissioner's Annual Report](#)

²² [Rights Lab report on the Benefits to Work for Survivors](#)

The data the Government provides is limited in scope and in the numbers referred to, but they suggest that an increase in trafficking claims, by those in detention, is demonstrative of the NRM being increasingly abused and that those applying from detention are mainly fraudulent claims.

13. However, we know (and welcome that) this Government has put in significant effort to improve the awareness and training of first responders²³ in the Immigration system. HTF can see this just by witnessing the increasing positive and sensitive engagement of border officials with our national and regional antislavery partnership groups. The increase, rather than entirely made up of fraudulent claims, is likely to be in part due to the improved awareness by statutory staff in detention thanks to this training, as well as by the fact that previously many victims failed to be identified in detention, as a leading Hibiscus report highlighted.²⁴ Furthermore, unlike asylum, being recognised as a victim of trafficking in the NRM, doesn't provide you with anything necessarily concrete, unlike the asylum process, so the impetus to use this route would as a result be small. Indeed, data shows that the UK did not grant protection via the asylum system to 49% of individuals identified as having been trafficked.²⁵
14. The implication earlier on in the Bill that a victim of human trafficking may be firstly penalised for how they came to the country,²⁶ compounded with this clause, where they will be penalised also for not disclosing their exploitation immediately, contravenes everything we know about modern slavery. The Commissioner in response to the Immigration Plan noted that these parts of the Bill effectively "conflate unmeritorious claims with late claims"²⁷ - for not only may victims not have control over how they enter the UK, but also a regular indicator of slavery is victims not wanting, or being unable due to trauma or fear, to reveal what happened to them. A vast range of literature exists evidencing trauma and the resulting delays in disclosure or confused accounts, and this includes the Government's own modern slavery statutory guidance²⁸ as well as in the Human Trafficking Foundation's Trafficking and Survivor Care Standards²⁹ which the Government adopted in full to monitor their victim care provisions. Alongside this, in many cases victims commonly don't identify themselves as victims – this is as true for British nationals as foreign national victims.³⁰
15. Stating you have experienced exploitation is not like requiring asylum, nor is it comparable to many 'clear-cut' crimes such as being mugged. It is a crime perhaps similar to domestic violence. It is often committed by someone the victim knows, or it is a crime committed in gradual steps, whereby the victim may not immediately be aware of the crime committed against them. In fact, one could almost suggest that late disclosure, let alone late self-identification, is a regular feature, even indicator of exploitation and slavery. There are certainly a range of reasons,

²³ [Home Office First Responder Training \(policingslavery.co.uk\)](https://policingslavery.co.uk) Home Office set up online first responder training in 2020

²⁴ [Hibiscus and the Prison Reform Trust](#) (2018)

²⁵ [Freedom of Information Request](#) ECPAT FOI

²⁶ Though as the IASC points out, "Apart from any adverse impact on potential victims of modern slavery there is a lack of evidence that harsher penalties will have the deterrent effect envisioned" [Independent Anti-Slavery Commissioner - Dame Sara responds to the Nationality and Borders Bill \(antislaverycommissioner.co.uk\)](#)

²⁷ [Independent Anti-Slavery Commissioner - Dame Sara responds to the Nationality and Borders Bill \(antislaverycommissioner.co.uk\)](#)

²⁸ [Modern Slavery: Statutory Guidance for England and Wales \(publishing.service.gov.uk\)](#)

²⁹ HTF's Trafficking Survivor Care [Standards](#), 2014 (2017 revised)

³⁰ GLA Conservatives - Shadow City 2013 [Microsoft Word - Shadow-City-v2.docx \(kalayaan.org.uk\)](#).

besides trauma, for why late disclosure and broader ‘credibility’ challenges are the norm if not the rule in modern slavery cases, hence why an amendment on slavery cases is necessary.

16. Another reason why there might be a delay is that some victims don’t want to admit they have been exploited. Sexual abuse is often considered shameful even for those born in more ‘liberal’ countries, while men who are exploited in work can feel ashamed by the lack of agency they experienced. HTF’s report³¹ looking at Romanian trafficked victims who return to Romania, identified that male victims who return home were not perceived as ‘victims’ in most of Romanian society, but as ‘losers’ – a man who had failed career wise, not someone, who in reality could be any of us, who had been cruelly exploited, abused and betrayed.
17. Stockholm syndrome is also another regular feature, particularly because victims who are targeted tend to already have vulnerabilities such as broken homes, learning difficulties, addictions and homelessness. When British police attempted to rescue British men who had been exploited by traveller families –and the abuse included men living outside without hygiene facilities, victims with untreated broken bones from the extreme violence, scurvy from malnutrition, - some refused to leave and said they saw the exploiters as ‘friends.’³²
18. Fear can be another key deterrent for victims to identify themselves. Often victims have been told their families back home will be murdered if they reveal anything. Traffickers often have a toolbox of options to instil fear in their victims. For example, the Metropolitan Police discovered that victims from West Africa had often undergone a juju ceremony which they strongly believed meant terrible things would occur if they revealed the abuse.³³ The Metropolitan Police told the GLA Conservatives in the latter’s report on modern slavery³⁴ that it took on average two years to get a victim of juju-induced slavery to reveal what happened to them. In expert groups HTF has run, NGOs all cite similar amounts of time (approximately two years) as the norm, including with British victim of CSE and CCE, for full disclosure.
19. Fears around immigration status – something that will only worsen if victims of trafficking mistakenly get caught in sections of the Bill meant for fraudulent claims – can also play a significant role in delayed disclosure. For example, an HTF staff member referred in her training session, to a client, ‘Rose’, that she had previously worked with in a former role, where Rose had been a victim of sexual exploitation. However, Rose became so sick from the abuse, she was of no use to the trafficker and so he reported her to immigration, so confident was he that she wouldn’t disclose her slavery, and that our systems were better geared to target immigrants like her than traffickers like him.
20. This is an imbalance that will worsen without suitable amendments to the Bill. It also risks doing the opposite of the aims of the Government with this Bill – that is, by discouraging victims from coming forward and being identified by these new restrictions, the police will have less access to victims and so less access to witnesses willing to help prosecute the genuine criminals the Government and British residents want our systems to incarcerate and remove.

³¹ HTF report for the Romanian Parliamentary Group annual [report](#) 2018

³² [My brother was held as a slave for 26 years | Family | The Guardian](#) “Psychological testing revealed that Alan also had Stockholm syndrome. He saw his captors as “nice blokes, who looked after me and stuck up for me”” and see GLA Conservatives report, Shadow City 2013 [Microsoft Word - Shadow-City-v2.docx \(kalayaan.org.uk\)](#).

³³ IPPR report 2013 Beyond Borders, [Beyond borders: Human trafficking from Nigeria to the UK | IPPR](#)

³⁴ GLA Conservatives - Shadow City 2013 [Microsoft Word - Shadow-City-v2.docx \(kalayaan.org.uk\)](#).

21. For example, it is critical that any trafficking notice is served with an assessment and awareness of risks and needs i.e. so that survivors have access to legal aid, have the correct translator, are aware of any disabilities, educational gaps in literacy etc, SEN, educational level e.g. literacy skills. In the Safeguarding Adult Review, SAR (a review taken by safeguarding adults boards when an adult dies – or in this case is presumed dead - prematurely in its area) for the case of Drina,³⁵ a lack of recognition that the victim had the mental age of a young child and also was provided with the wrong translator who only knew a different Roma dialect, led to devastating mistakes.
22. HTF staff have also worked in previous roles as first responders, or presently as expert witnesses to cases, on slavery and have found that often the victim they interviewed did not really understand the NRM to the point that they often didn't know if they were in, or had been in, the NRM or not.
23. There needs to be clarity that the notice period can be extended and it needs to be defined clearly that there are circumstances when a late disclosure should not be penalised.
24. Nonetheless, one area where HTF has heard concerns from the police around wasted time is in the current NRM process whereby all NRM referrals must be recorded by police. To reduce the costs associated with possible fraudulent foreign national NRM claims, one recommendation would be to allow police to only crime record NRMs where the exploitation takes place in the UK.
25. The focus on credibility however highlights a broader lack of trust in the SCA decision making process. The onus then should fall on the system not the victim themselves. To prevent abuse of the NRM, the Commissioner was correct in stating, in her response to the New Plan for Immigration, in effect, that really it is improving the system that we need to prioritise, by highlighting that the plan was correct in its proposal to improve immigration first responder training. However, this training should be targeted at all first responders including for police and local authorities. First responder organizations such as police should ideally be made to create a Single Point of Contact (SPoC) model for first responders, as our organisation HTF has set up across councils, police and the NHS in London³⁶, to avoid forcing anyone in statutory authorities, including those with no experience, to be burdened with this role. However, this doesn't go far enough, as decision makers in the SCA also require more training to ensure decisions are as watertight as possible. If the NRM system was improved in this way, then the concerns of the Government about abuse of the NRM could be addressed to prevent fraudulent claims from finding their way through in the first place.
26. Any references to putting further details to clauses in Part 4 of the Bill in later regulation or guidance, should be placed in the already written modern slavery statutory guidance, that is regularly updated, rather than mistakenly converge some new guidance on modern slavery with immigration guidance in any new National and Borders Act guidance or regulations that will be published.
27. Moreover, the voice of survivors needs to be guiding this work, as only they can provide true clarity on how the systems work in practice and how exploitation affects individuals directly.

³⁵ [final_sar_drina_report - DRINA.pdf \(lbbd.gov.uk\)](#)

³⁶ Spoc directory - [London — Human Trafficking Foundation](#)

Clauses on the disqualification of victims of modern slavery from the NRM and protection

Overly broad definition of serious criminality – Clause 51

28. One of the most contentious corollaries of the Bill for the sector is implicated in Clause 51, which exempts an individual from being given a recovery and reflection period in the NRM or receiving a CG decision and recognition of being a victim of modern slavery, if they are a threat to public order or made a claim in ‘bad faith’.
29. HTF understands why it is important that we prevent any fake submissions and dangerous criminals from exploiting the NRM. However, whereas we know victims are repeatedly mistakenly criminalised and that this is pervasive,³⁷ conversely, the numbers on criminals exploiting the NRM appear to be relatively low or at least far from endemic.
30. In the [Rights Lab submission](#) to the Immigration Plan they noted that “between 2017 and 2019, 350 foreign national offenders [FNOs] raised an NRM referral while in total over the same period, 22,765 potential victims were referred into the NRM. This equates to 1.5% of all referrals made were in relation to FNO’s” and that “[Government figures](#) show 4,582 FNOs left detention in 2020, of these 288 were referred into the NRM whilst they were detained. This means that less than 3% of NRM referrals in 2020 related to FNOs, this does not seem to correlate with the [government’s claims](#) that serious criminals are abusing the systems in place.”³⁸
31. Either way, while the spirit of the clause may be unproblematic, the unintended consequences of this clause could be damaging. This Bill is drafted in such a way that the definition of serious criminality has a far lower threshold than the Government may realise and certainly than many in the British public would be comfortable with.³⁹
32. The definition of a threat to public order in this Bill casts far too wide a net, and, despite being immigration legislation, will also impact British victims of modern slavery, who currently make up the majority of victims protected in the UK. The definition also includes offences committed under duress, as well as petty offences committed abroad and possibly from many years before.
33. Indeed [NRM statistics](#) show that 48% of all identified victims in 2020 had elements of criminal exploitation in their cases and that criminal exploitation was present in 65% of cases referred involving children. It is also well known that victims of modern slavery often receive a criminal record as a result of their exploitation (for example through county lines⁴⁰) and this clause denies them the protection they require.
34. Under this clause, a threat to public order includes anyone who has been convicted of any of the wide list of offences listed in schedule 4 of the Modern Slavery Act, (for example, potentially minor

³⁷ Much evidence on this including in RACE report [Microsoft Word - UK Chapter FINAL edits proofread RC.doc \(antislavery.org\)](#) and [Download.ashx \(hestia.org\)](#) Hestia report 2018, Underground lives ; [Hibiscus and the Prison Reform Trust](#) (2018) HMICFRS Report, 2017 [stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf \(justiceinspectrates.gov.uk\)](#) and [1196 criminal exploitation report 2020 v0 13w.pdf \(antislaverycommissioner.co.uk\)](#)

³⁸ Rights Lab 2021 [response-to-the-new-plan-for-immigration.pdf \(nottingham.ac.uk\)](#)

³⁹ For example, [SJwomen briefing.qxp \(prisonreformtrust.org.uk\)](#) re drugs - [How Britain became socially liberal in just 30 years \(kcl.ac.uk\)](#)

⁴⁰ HTF Advisory Forum Minutes March 21 [HTF+online+forum+-+Minutes+23rd+March+Updated.pdf \(squarespace.com\)](#)

- crimes such as robbery or damage to property) or a foreign national who has been sentenced to 12 months (bearing in mind, in parts of Europe, very minor offences can carry such a sentence).
35. Subsection 3 stipulates that an individual is considered a threat to public order if: they have been convicted of any of the offences listed in Schedule 4 to the Modern Slavery Act 2015, or a 'corresponding offence under the law ... of *any other country*', and so incorporates criminality not just committed in the UK but also potentially old, minor offences committed in their country of origin. They are then considered a foreign criminal within the meaning of section 32 of the UK Borders Act 2007.⁴¹
36. The offences listed in schedule 4⁴² don't contain drug offences per se, but there are lots of connected offences on the county lines cases which would meet the public order exclusion. Possession with Intent to Supply offences is also included in schedule 4, which would impact British and Vietnamese cases where victims are often convicted of drug crimes they committed under duress and this occurs either because the victim is too scared to point a finger at the traffickers or because, as the IASC has outlined in a report, even where they are recognized as victims, the statutory defence the Modern Slavery Act provides is not widely used when they go to court.⁴³
37. Meanwhile those young people trapped in criminal exploitation risk falling victim not just to debt bondage and related slavery indicators, but risk death as more and more SARs are being published after tragedy occurs which often appear to relate to county lines.⁴⁴ This country needs to be doing more to help these young individuals, as Government⁴⁵ recognises, yet this clause risks doing the reverse.
38. Indeed, it contravenes everything the Home Office and this Government have previously done to address those at risk of being missed as victims of the crime of modern slavery. Indeed the [Modern Slavery Statutory Guidance](#) (2021) outlines a clear understanding of forced criminality and that it is in itself slavery, and numerous reports have been produced recognising the exploitation of British children and vulnerable adults by criminal gangs involved in county lines, violence or other serious criminality.⁴⁶
39. We also know that many victims from Eastern Europe are targeted precisely due to their petty convictions, that can carry longer sentences abroad, with prison leavers sought out precisely due to this vulnerability. As we saw with Operation Fort, which involved dismantling the UK's biggest modern slavery network - where traffickers had 'targeted the most desperate from their homeland, including the homeless, ex-prisoners and alcoholics⁴⁷').
40. Hestia published data on male modern slavery victims in their service (they are the largest support provider in the NRM) which showed that 50% of men in their NRM support had spent time in prison or in detention. "For the five men who gave us the reason for spending time in prison or detention, the offences were related to their trafficking. These included theft, driving

⁴¹ "Section 32 of the Borders Act 2007 states automatic deportation for a person who has committed an offence in the UK of 12 months or more (exception to this is in section 33 where this would breach ECHR). So it is this provision which would apply to offences in the UK." H4J

⁴² <https://www.legislation.gov.uk/ukpga/2015/30/schedule/4>

⁴³ IASC report 2020 - [the-modern-slavery-act-2015-statutory-defence-call-for-evidence.pdf](#) ([antislaverycommissioner.co.uk](#))

⁴⁴ [Case Reviews | chscp](#)

⁴⁵ [County Lines: Exploitation of Children - Monday 10 February 2020 - Hansard - UK Parliament](#) Feb 2020 Kit Malthouse PQs

⁴⁶ [Protecting children from county lines | NSPCC Learning](#); [County Lines exploitation: applying All Our Health - GOV.UK \(www.gov.uk\)](#)

⁴⁷ BBC 2019 [UK slavery network 'had 400 victims'](#) - [BBC News](#)

offences (for driving traffickers without a license or insurance), working with illegal documents or immigration offences. This is despite the fact the Modern Slavery Act provides a statutory defense against imprisonment for offences that are attributable to slavery or to relevant exploitation".⁴⁸ The report also quoted a lead police officer stating, "Sometimes having been through the criminal justice system can be an indicator of exploitation. For example, if there are men who have convictions from around the country for low-level crime, that may be an indicator of being coerced into criminal activities."⁴⁹

41. Hope for Justice has also published data⁵⁰ of their current live caseload, which showed that 29% of their present clients had committed offences that would meet the criteria for exemption under public order grounds, with a further 13% having committed wider offences that may/may not meet the criteria for a public order exemption and 3% had a conviction but the details of this were unknown -so potentially 45%, that is along similar lines to Hestia's data that 50% of their clients had criminal convictions or related offences.
42. Therefore, Clause 51 inadvertently creates challenges to the issues the Bill wants to address:
- The first concern is that this sends a clear message to traffickers that they are free to exploit people with a criminal record, as they know their victims won't try to escape as they will no longer be offered protection.
 - The second is this clause does not exclude children, therefore enabling under 18s to be disqualified from protection, contrary to their rights as a child and our country's understanding of consent.
 - It sets a dangerous precedent in creating for the first time, formally, the deserving and undeserving victim of a very serious crime (in the same way, society used to divide rape and murder victims into the deserving and undeserving).⁵¹ The clause effectively implies that because a person has been convicted of one crime, they are not considered a victim deserving of support and recognition of another. Yet surely - when modern slavery is recognised by the Rt Hon Sajid Javid when he was Home Secretary as a 'sickening form of inhumane exploitation that has absolutely no place in society'⁵² – we would want victims of such a heinous crime to be supported and their perpetrators to be caught, just as we would want a person who has committed drug offences to receive support and help prosecute his perpetrator if he were also sexually assaulted. Individuals, particularly of low-level crimes, should never be disqualified from being a victim of one crime because they have been a perpetrator of another and it is likely that this Clause may anyway be incompatible with international obligations, including the European Convention on Human Rights or previous cases on modern slavery.⁵³

⁴⁸ [Download.ashx \(hestia.org\)](#) Hestia report 2018, Underground lives

⁴⁹ Ibid

⁵⁰ Hope for Justice data in the IASC letter - [iasc-letter-to-the-rt-hon-priti-patel-mp-home-secretary-march-2021.pdf](#) ([antislaverycommissioner.co.uk](#))

⁵¹ "During the trial of Peter Sutcliffe the judge gave the jury the following advice: If Sutcliffe mistakenly believed that he had killed only prostitutes, "then the correct verdict was probably manslaughter," not murder."" Silence on violence report [safety of women is being compromised by the current laws on prostitution \(nswp.org\)](#)

⁵² (2) Sajid Javid on Twitter: "Modern slavery is a sickening crime that I'm determined to eradicate from society. That's why the Govt is strengthening its response to tackling this insidious form of exploitation. <https://t.co/CLKeloJNpl>" / Twitter

⁵³ <https://www.gardencourtchambers.co.uk/news/echr-judgment-finds-failure-to-adequately-protect-potential-victims-of-child-trafficking>

- The fourth concern is that this clause will have a devastating impact on the already low rate of modern slavery prosecutions and seriously undermine the UK’s ability to bring traffickers to justice. This is because it will make the identification of modern slavery victims harder as they are less likely to come forward if the NRM is anyway closed to them. Yet up until now police have been seeking ways to encourage more victims to come forward to improve low conviction rates⁵⁴ and this Bill currently risks doing the opposite - deterring victims from providing evidence as they will not give witness testimonies without protection. Operation Fort⁵⁵ - which led to 8 convictions, the most successful police operation on slavery so far - would likely have never been able to get off the ground under this new Bill as its witnesses, as former convicts, would have been denied the NRM in the first place.
43. There is also strong evidence that getting adequate protection and support plays a key role in getting prosecutions. Nusrat Uddin’s report on Slavery Prosecutions found those countries with more support (including leave to remain) for victims had far more prosecutions and convictions than the UK.⁵⁶

	UK	USA	Belgium	Netherlands
Prosecutions	98	335	353	311
Convictions	39	184	84	109

44. Meanwhile in the UK those organisations such as Bakhita House and Hope for Justice that gave full holistic support had far more success at getting prosecutions than the national average.

Bakhita House 2017 data:

- 45 out of the 78 VOTs supported in 2017 were working with the police or had reported the crimes committed against them.
- 6 prosecutions of traffickers were secured as a result of evidence given by Bakhita House VOTs. Another 3 cases were proceeding to court.
- 47 years in prison, total, for the 6 convicted traffickers, thanks to Bakhita House VOTs.

Hope for Justice 2018 data:

- As of August 2018, 73% of VOTs within Hope for Justice’s main support service had engaged with or were able to engage with a criminal justice process.
- Between January 2013 - August 2018 - 100% of the VOT within Hope for Justice’s main support service who were called to attend trial were able to attend.
- Between January 2013 - August 2018 of the VOTs Hope for Justice supported through to criminal trial - all bar two cases resulted in a successful conviction (the two cases were discontinued on points of law not victim disengagement).⁵⁷

45. Unintentionally therefore this clause is likely to impact genuine victims who pose no risk to society while leaving those higher up in the criminal ‘foodchain’ unscathed. Thus, it inadvertently poses a threat to national security by losing vital intelligence and so shutting down the possibility of prosecutions and providing a new effective haven to traffickers who exploit those with

⁵⁴ NAO report, 2017 [Reducing modern slavery - National Audit Office \(NAO\) Report](#) & HMICFRS Report, 2017 [stolen-freedom-the-policing-response-to-modern-slavery-and-human-trafficking.pdf \(justiceinspectorates.gov.uk\)](#)

⁵⁵ <http://www.antislaverycommissioner.co.uk/news-insights/launch-operation-fort-revisited/>

⁵⁶ [Nusrat’s research report: The UK is lagging behind in the fight against Modern Slavery - Wilson Solicitors LLP \(wilsonllp.co.uk\)](#) 2018 report by Nusrat Uddin ‘The role of victim support in prosecuting crimes’

⁵⁷ Ibid

convictions or exploit victims via criminal exploitation. While this government wants to do more to protect the UK from organised criminal slavery networks, this clause will foster the reverse. The government should naturally want to stop serious, sexual, violent offenders from exploiting systems to stay out of detention or gaol but the guidance around modern slavery already effectively does this, in its section on Public order on page 147.⁵⁸

46. The clause needs to be amended if it is to serve the intended purpose of the public order exemption which is to exclude victims or fraudulent victims who are dangerous offenders and/or a threat to nationality security – to do this, the thresholds need to be much higher so as to limit the definition to the most serious offences such as terrorism. Such thresholds could be similar to provisions (52B) in Lord McColl’s Support [bill](#) around leave to remain provisions following a positive CG decision.⁵⁹
47. There also needs to be more clarification around the definition of bad faith. As described earlier, there are a host of reasons a victim may not disclose slavery early on when they come into contact with authorities or may provide a muddled version of events. Since the aim is to tackle fraudulent attempts to exploit the NRM, the wording could be examined to be along the lines of spelling out more precisely that it wants to target any *deliberately false* claim.

Clauses on the support and leave provisions during and after the NRM

Changing the support parameters – Clauses 49, 50, 52

48. The HTF welcomes the decision to place support on a statutory footing in Clause 49 and thinks this Bill offers real potential to fix and improve the NRM provisions. However, concerns we wish to flag include the decision to reduce the 45 day recovery and reflection period to 30 days, as well as the absence of any mention around the recently introduced Recovery Needs Assessment, RNA⁶⁰ (made after a positive NRM decision) and its extension of support post a CG decision.
49. Moreover Clause 50 must allow for flexibility around repeat applications for the NRM, to recognise for example that victims of labour exploitation and domestic servitude can in some cases, only many years on, then reveal sexual exploitation as part of this experience due to the shame such abuse can carry.⁶¹ However such an individual should then have the right, again, to receive specialist support that exists within the NRM, which this clause could prevent.
50. In Clause 52, the wording that support should only be provided “where necessary” and only then in respect to those harms to their physical, mental health and social wellbeing that *directly arose* from exploitation is also an area of concern. It fails to address issues relating to vulnerability in the first place, yet the Salvation Army 2020 Annual Report⁶² evidences how an increasing number of individuals are being referred into the NRM with complex needs, particularly in ‘county lines’ cases

⁵⁸ [Modern Slavery: Statutory Guidance for England and Wales \(publishing.service.gov.uk\)](#)

⁵⁹ [About the Bill | Free For Good](#) and the Bill: [newbook.book \(parliament.uk\)](#)

⁶⁰ [Recovery needs assessment \(RNA\): process guidance - GOV.UK \(www.gov.uk\)](#)

⁶¹ [The Persistence of Shame Following Sexual Abuse: A Longitudinal Look at Risk and Recovery \(sagepub.com\); Why Don't Victims of Sexual Harassment Come Forward Sooner? | Psychology Today United Kingdom](#)

⁶² [Modern slavery latest reports | The Salvation Army](#)

where victims often have high complex needs such as relating to addictions and mental health issues. Furthermore, it is often challenging to dissect those vulnerabilities from before and after exploitation when many simply are exacerbated by the exploitation itself. Moreover, as Hope for Justice highlights in their evidence - the explanatory report to ECAT⁶³ clearly states that the purpose of the recovery and reflection “period is to allow victims to recover and escape the influence of traffickers.” Yet they cannot do this if the vulnerabilities that caused them to be targeted by traffickers in the first place are not addressed. HTF spoke with one police officer who had referred the same male victim into the NRM three times! Because each time he exited the NRM he fell back into homelessness, as this issue wasn’t addressed by the NRM support at the time, and so he was targeted again by traffickers (who seek victims at homeless shelters etc.).

51. The IASC highlights that the NRM providers must work closely with other services such as adult and child safeguarding teams, housing and the NHS to help prevent these vulnerabilities long-term. In the above case example, if the NRM support provider had teamed up with the local housing department perhaps something could have been done to prevent his tragic situation.
52. HTF has managed to connect NGO and NRM services to councils and the NHS through its innovative London Modern Slavery Leads Group.⁶⁴ However really this work should be funded by the statutory sector and replicated across the UK.
53. Modern Slavery needs to involve other departments, besides the Home Office. HTF hopes other key Government departments around local authorities, social care and health, as well as Police and Crime Commissioners, will work with the Home Office on this area, when traditionally the Home Office has had to carry the weight of this issue in policy terms and funding streams.

Providing foreign national victims of slavery the opportunity to stay in the UK – Clause 53

54. In the Independent Antislavery Commissioner’s (IASC) response to the Plan she cites HTF’s report on the present inadequacies of our voluntary returns process and also provides shocking figures of how few access leave to remain.⁶⁵ This underscores the value in the government’s new intentions to confirm in legislation that victims may be eligible for temporary leave to remain.
55. HTF hopes this goes much further though. Anyone recognised as a refugee is given five years leave. Domestic Workers in domestic servitude can access two years leave to remain. HTF believes the same should automatically be offered to all conclusively recognised victims of modern slavery.
56. The Bill wants to increase prosecutions, which HTF welcomes, but we also point to the evidence in Nusrat Uddin’s report and elsewhere, that countries only increase their prosecutions and convictions with increased support provided to survivors, including providing Trafficking-visas and leave to remain. Those countries which gave victims trafficking visas all had more convictions than the UK. We recommend a version of Lord McColl’s Bill provisions on long-term support provision should be examined. And in keeping with policy around domestic servitude, all modern slavery victims, not just of domestic servitude, should be able to access two years leave to remain as part of their recovery if they so choose.

⁶³ [CETS 197 - Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings \(coe.int\)](#)

⁶⁴ [LMSL — Human Trafficking Foundation](#)

⁶⁵ HTF/IOM [report](#) 2019

Human

Trafficking

Foundation

57. The whole section also never touches on children. And it should be noted that this clause in particular conflicts with Article 14.2 of ECAT, and that clarity should be given that when it comes to discretionary leave for child victims of modern slavery, the decision must be in the best interest of the child.