DOI: 10.14197/atr.20121558

Claiming Space for Labour Rights within the United Kingdom Modern Slavery Crusade

Caroline Robinson

Abstract

The focus of this article is on advocacy opportunities provided by the anti-trafficking framework in a new political climate. Through the case study of the United Kingdom (UK) Modern Slavery Act 2015 deliberations the article explores opportunities to use political interest in human trafficking to advocate labour rights and protections for vulnerable workers. The article explores how, largely cynical, political motivations for the debate on 'modern slavery' in the UK, provided an opportunity to reframe the anti-trafficking discourse in this context. Whilst migration control and labour market deregulation are key priorities for the UK government, the Modern Slavery Act process enabled advocates to highlight the impact of such measures on vulnerable, predominantly migrant, workers. It also ultimately served to persuade decision makers to make a connection between widespread labour abuses and severe labour exploitation. Through this case study the article argues for engagement with anti-trafficking frameworks to both highlight and harness the political rhetoric, and maximise the space provided for promoting the rights of vulnerable workers.

Keywords: UK, modern slavery, labour exploitation, immigration, labour inspection, policy advocacy

Please cite this article as: C Robinson, 'Claiming Space for Labour Rights within the United Kingdom Modern Slavery Crusade', *Anti-Trafficking Review*, issue 5, 2015, pp. 129–143, www.antitraffickingreview.org

Introduction

The global debate on human trafficking has largely been dominated by sex.[1] Responses to trafficking for sexual exploitation have the power to polarise moral opinion to such an extent that the Trafficking Protocol[2] negotiations in the late 1990s were reportedly dominated by angry exchanges and eventual gridlock about prostitution's place in the treaty.[3] However, the process to review and revise the United Kingdom's (UK) anti-trafficking law and policy framework from 2013–15 has taken a different course. Here moral opinion on sexual exploitation has been overtaken by a less muddied moral narrative recalling the UK's role in the abolition of the transatlantic slave trade. This article discusses how the Modern Slavery Act 2015 process[4] and this moral narrative have been used by politicians to offset the impact of their own morally questionable responses to immigration and labour market regulation.

---

1 See for example: the work of N Kristoff in the *New York Times*, retrieved 6 August 2015, http://www.nytimes.com/column/nicholas-kristof and at Half the Sky Movement, retrieved 14 May 2015, www.halftheskymovement.org; J Chuang, 'Rescuing Trafficking from Ideological Capture: Prostitution reform and anti-trafficking law and policy', *University of Pennsylvania Law Review*, vol. 158, issue 6, 2010, p.1655; E Bruch, 'Models Wanted: The search for an effective response to human trafficking', *Stanford Journal of International Law*, vol. 40, issue 1, 2004, pp.1–45.

2 In full: United Nations General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000 (Trafficking Protocol).

3 See: A T Gallagher, 'Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A preliminary analysis', *Human Rights Quarterly*, vol. 23, 2001, retrieved 25 February 2015, http://traffickingroundtable.org/wp-content/uploads/2012/07/Human-Rights-and-the-New-UN-Protocols.pdf

4 This article was drafted two weeks prior to the Modern Slavery Bill's enactment into law.

This is an open-access article distributed under the terms of the Creative Commons Attribution License (CC-BY). Under CC-BY license, the public is free to share, adapt, and make commercial use of the work. Users must always give proper attribution to the author(s) and the *Anti-Trafficking Review*.

In this article I will look at the motivations behind the UK government proposing concurrent legislation that on one hand sought to create gaps in protections for migrants and low-skilled workers and on the other sought to support those who are severely exploited as a result of such gaps. I will discuss how this contradictory policy juxtaposition provided an opportunity for organisations like my own, Focus on Labour Exploitation (FLEX), to reframe the debate on trafficking through the Modern Slavery Act. I will use the example of the Modern Slavery Act debate on the role of the Gangmasters' Licensing Authority (GLA), a labour provider licensing body established to prevent labour abuses, to demonstrate how it served as a conduit for discussion on the connection between migration control, labour market deregulation and labour exploitation. I will conclude by addressing the implications of the UK experience for future advocacy in the sphere of trafficking for labour exploitation.

Focus on Sexual Exploitation in Anti-Trafficking Responses

From Cambodia to India, Argentina to the United States of America, anti-trafficking legislation has caused debate, fighting and often stalemate among those who support sex work as work and those who believe it to be inherently exploitative. Indeed many sex workers' rights activists have come to despise all interest in combating 'trafficking' as they view such interest as a covert means of attacking sex work. In the UK, however, the debate in relation to the Modern Slavery Act has taken a different direction, away from questions relating to sexual exploitation. The narrative has shifted from the morality of selling sex to that of abusing labour for profit—all labour in all sectors—a major departure from many anti-trafficking debates. Addressing non-governmental organisations (NGOs) on the Modern Slavery Bill's contents at the Human Trafficking Foundation forum in December 2013, the then Security Minister James Brokenshire, expressly ruled out consideration of prostitution within the Bill due to time constraints. In the interests of ensuring safe passage of their Bill through Parliament before the May 2015 general election, the government sought to draw on a more black-and-white moral narrative. The spirit of William Wilberforce and his crusade against the transatlantic slave trade from his seat in the UK parliament was regularly invoked, making non-sexual 'slavery' the narrative focus, and therefore largely side stepping polarising debate on agency in sex work.

Immigration

With the UK General Election set to take place in May 2015, the governing party, the Conservatives, were aware that immigration could sway the vote. Figures on net migration had seen a 'statistically significant increase' to 298,000,[5] contrary to the Conservatives' 2010 election pledge to reduce levels of net migration to below 100,000. The Conservatives were also threatened by a growing popularist political movement, led by a minority party, the UK Independence Party (UKIP). UKIP links unemployment, low pay and reduced funding for public services to the pressures placed on the UK by immigration from EU Member States. In order to counter this threat, the Conservatives championed government measures that sought to reduce opportunities for migrants to access the British welfare system and to increase barriers to undocumented migrants accessing services. The proposed Modern Slavery Bill, steeped in associations with William Wilberforce and Britain's role in 'extinguishing the new slavery just as it did the old',[6] was partly designed to soften the blow for a core section of its electorate, namely Anglican church goers,[7] of the anti-immigration agenda.

The Modern Slavery Bill's announcement coincided neatly with the introduction of the Immigration Bill to the Houses of Parliament. This Bill, now Immigration Act 2014, explicitly aimed to 'make the UK the least attractive destination for illegal [sic] migrants'[8] through measures to limit migrant access to public services.

---

5 Office for National Statistics (ONS), 'Migration Statistics Quarterly Report, February 2015', ONS, 2015, retrieved 26 February 2015, http://www.ons.gov.uk/ons/rel/migration1/migration-statistics-quarterly-report/february-2015/index.html

6 F Nelson, 'William Wilberforce's heirs are ready to tackle the great evil of the age', *The Telegraph*, 22 August 2013.

7 B Clements and N Spencer, 'Voting and Values in Britain: Does religion count?', Theos, 2014, retrieved 28 January 2015, http://www.theosthinktank.co.uk/files/files/Reports/Voting%20and%20Values%20in%20Britain%2012.pdf

8 Home Office, 'Immigration Bill Factsheet: Overview of the Bill', Home Office, 2013, p.3, retrieved 28 January 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249251/Overview_Immigration_Bill_Factsheet.pdf

The introduction of the Modern Slavery Bill, to help the victims of hostile migration measures, successfully rallied support from both the Anglican and Catholic churches. This move headed off those who might accuse the Conservatives of regressing to the 'nasty party', a term coined by the then Chair, now Home Secretary, Theresa May in 2002, recognising the party's need to detoxify their image. When May made tackling 'modern slavery' a 'personal priority' in 2013[9] she was keenly aware of the importance of her anti-slavery crusade to her party's electoral success.

The opposition Labour Party also found labour exploitation to be a useful means of addressing the difficult politics of immigration. Delivering a key speech on immigration in 2012, the Labour leader Ed Miliband detailed mistakes he felt his party had made when in government: an unrestricted flow of immigration from the European Union, weak labour standards and a 'short-term, low skill approach' from business.[10] In the speech, Miliband spoke of the need to expand the remit of the GLA. The Labour Party was striving to address British people's growing concerns about immigration whilst ensuring that their core trade union support and socialist wing did not see it as evidence of a shift to the right. In April 2014, Labour Shadow Home Secretary Yvette Cooper, in a speech on immigration, launched a consultation in to 'the laws around exploitation and the undercutting of wages and jobs.'[11] Labour's position on immigration has become tied to its position on labour exploitation: too many low-skilled migrant workers is bad both for migrant workers who are being exploited, and for British workers who are having their wages undercut.

Deregulation

In addition to toughening conditions for undocumented migrants in the UK, the Coalition government also implemented significant reforms to the way in which the labour market is regulated, with implications for the low-skilled workforce. The government's 'Red Tape Challenge' set out to reduce the regulatory burden on UK business, and culminated in the publication of a Deregulation Bill in July 2013. Its provisions included changes to rules governing health and safety for self-employed workers as well as curtailing the powers of employment tribunals and the main UK labour inspection authorities. Many of the so-called bureaucratic measures to be cut had an impact on protections for workers. In this context, the Modern Slavery Bill offered the government a safe space to talk about severe labour abuses being faced by some workers, without addressing some of the wider impact of deregulation or migration reform on workers at the bottom of the labour market.

The Modern Slavery Act

The Labour and Conservative Party positions on immigration and the labour market, whilst distinct, share a need for a sweetener for important sections of both their core base and potential electorate. For the Modern Slavery Bill to provide this it had to incorporate consideration of labour exploitation across all sectors, something that is often excluded in anti-trafficking debate. Indeed, when I asked the Home Secretary at the launch of the Bill whether prevention of trafficking for labour exploitation would be considered in the proposed legislation she said that it was a key priority for the government and that the role of the GLA would be under review as a core part of this agenda. Whilst politicians are skilled at offering appeasing responses, within five months of the Bill launch meeting the GLA had been moved from the Department for Environment, Food and Rural Affairs to the Home Office, opening the door for its expansion into non-agricultural sectors. Announcing this major change, the government said the move would help 'stop practices which exploit vulnerable workers and undercut local businesses that play by the rules'.[12] This announcement made clear that rhetoric on labour exploitation would play a major part in the modern slavery crusade. The danger was that the language of labour exploitation would be used to target migrants and to pursue serious organised criminal networks rather than to enforce labour rights.

---

9 Press Association, 'Theresa May makes modern slavery her "personal priority"', *The Guardian*, 24 November 2013.

10 E Miliband, 'Ed Miliband's Immigration Speech in Full', politics.co.uk, 2012, retrieved 29 January 2015, http://www.politics.co.uk/comment-analysis/2012/06/22/ed-miliband-s-immigration-speech-in-full

11 Y Cooper, 'Labour's Approach to Immigration—Speech by Yvette Cooper MP', Labour Party, 2014, retrieved 31 January 2015, http://press.labour.org.uk/post/82276714334/labours-approach-to-immigration-speech-by

12 UK Government, 'Tougher Enforcement Action and Stronger Penalties for Unscrupulous Employers', 2014, retrieved 31 January 2015, https://www.gov.uk/government/news/tougher-enforcement-action-and-stronger-penalties-for-unscrupulous-employers

A Modern Slavery Bill supported by all parties, to be rapidly enacted before the May 2015 general election made good political sense. Early on, NGOs were told by those enforcing the Bill for the government that due to the short timeframe, importance and urgency of the issue, few amendments should be sought. This is not unusual in the anti-trafficking world, as the Global Alliance Against Traffic in Women (GAATW) has shown,[13] time and again responses to human trafficking are often misguided precisely because of their act-first-think-later nature. In the UK context, acting first meant ignoring the mismatches beneath the surface of the government's immigration, red tape cutting and modern slavery agendas. Yet while some suggested 'any bill on slavery is better than no bill',[14] many politicians, lawyers and NGOs, including FLEX, were outspoken in their objection to the draft Modern Slavery Bill. Indeed, in a *Guardian* newspaper article published following the release of the Draft Bill, Claire Falconer and I highlighted many key gaps in the Bill, which we argued lacked 'prevention measures required to root out exploitation in high-risk labour sectors' as well as any victim protection or support provisions.[15]

A Focus on Labour Exploitation in the Modern Slavery Act

Forced labour and trafficking for labour exploitation were pushed to the fore during the Modern Slavery Bill[16] pre-legislative scrutiny, parliamentary debate and amendments. The key opportunities to amend the Modern Slavery Act as it passed through Parliament were at Committee and Report Stages, first in the House of Commons and then in the House of Lords. Opposition amendments on labour exploitation and forced-labour-related issues were tabled at all stages, and it was these amendments that ultimately served to shift the Bill most from its original form. Trafficking for labour exploitation and forced labour were covered in three main ways through the Bill debates: firstly in efforts to change the 'tied' overseas domestic worker visa; secondly to provide for corporate supply chain transparency and accountability; and finally to address the limited remit of UK labour inspectorates and particularly the GLA. The first of these issues is backed by a long-standing and broad coalition of NGOs and rights organisations, as well as many opposition Members of Parliament (MPs), who argue that the UK domestic worker tied-visa system resembles the Middle-Eastern *Kafala* system of employer-employee sponsorship. The second issue, corporate accountability, also has broad civil society support from investors, business, NGOs and parliamentarians, and advocacy focused on measures to ensure UK corporations effectively scrutinise their supply chains for labour exploitation. The final issue, UK labour inspection, was much less popular as many saw it as an unattainable goal, particularly in the climate of deregulation and greatly reduced resources for all government agencies. Yet by including labour exploitation as part of the narrative surrounding the Bill the government enabled NGOs like FLEX to make progress on this issue, which might not otherwise have been possible.

FLEX advocacy on the GLA, and on UK labour inspection more widely, sought to ensure that wherever the modern-slavery agenda was used to hide or cloud the impact of immigration and labour deregulation

---

13 GAATW, 'Collateral Damage: The impact of anti-trafficking measures on human rights around the world', GAATW, 2007.

14 Comments made by Baroness Butler-Sloss at the Human Trafficking Foundation Forum meeting, 9 December 2013.

15 C Robinson and C Falconer, 'Theresa May's Modern Slavery Bill will Fail to Provide Protection to Victims', *The Guardian*, 20 December 2013.

16 This Bill was drafted by the UK government in 2013, it then underwent a process of 'pre-legislative scrutiny', which consisted of submission of oral and written evidence from interested parties on the Bill's contents to a committee of MPs from both the lower chamber, the democratically elected House of Commons and the upper chamber, the unelected House of Lords. This 'Select Committee' published a report on evidence received and the Bill was presented to the House of Commons in June 2014 at 'First Reading', a brief formal introductory process. The Bill returned to the House of Commons for 'Second Reading' during which Members of Parliament debated its contents in more depth. The Bill then underwent a 'Committee Stage' in the House of Commons during which appointed cross-party MPs debated its contents and proposed amendments that were voted on by the Committee. The Bill then returned to the House of Commons for 'Report Stage' at which time any MP who wished to do so could bring forward amendments to the Bill for debate and instigate votes on such amendments. 'Third Reading' took place immediately after 'Report Stage' in the Commons—the final debate on the Bill before it was sent to the House of Lords. In the House of Lords the Bill underwent the same process: 'First Reading'; 'Second Reading'; 'Lords Committee Stage', which unlike the Commons did not involve votes on amendments to the Bill; 'Report Stage; and finally 'Third Reading'. The Bill then returned to the House of Commons for 'Consideration of Amendments' or 'ping-pong', where Lords amendments were overturned by the government meaning the Bill returned to the House of Lords for 'ping-pong' agreement of the revised Bill. The Bill was then 'enacted' through 'Royal Assent' on 26 March 2015, becoming the Modern Slavery Act 2015.

reforms, we would use it to clarify the connection between all three. This became especially important as the parliamentary debate and government policy, mired in immigration tensions, risked moving the GLA away from a focus on its licensing standards, linked to forced labour indicators, towards immigration enforcement. A FLEX working paper used in advocacy on the Bill highlights gaps in prevention of trafficking for labour exploitation in the UK and looks at opportunities for the existing UK labour inspectorates to do more to proactively prevent this crime.[17] In doing so it addresses the limited scope of the GLA and calls for its expansion in to a broad range of UK labour sectors in order to conduct its intelligence gathering work across the UK labour market. This is not a new position, many trade unions and NGOs called for expansion of the GLA almost as soon as it was established, but this advocacy had largely subsided in the context of austerity and a strong emphasis on market deregulation.

The GLA was established in the Gangmasters (Licensing) Act 2004 to protect vulnerable workers in the agriculture, food processing, horticulture, forestry and shellfish gathering sectors. The Bill was introduced by Jim Sheridan, a Labour Member of Parliament (MP), shortly after the death of 23 Chinese cockle harvesters who were working for a gangmaster in the northwest of the UK, at Morecambe Bay, in February 2004. Importantly, this legislation not only sets out to protect workers from exploitation but also defines a 'worker' to include individuals without the 'right to be, or to work in the United Kingdom'.[18] The GLA was therefore established in recognition of the fact that workers, documented and undocumented, are vulnerable to exploitation and the state has a duty to act to prevent such exploitation by enforcing labour standards. The focus on labour exploitation in the course of the Modern Slavery Act provided a space for this issue to be revived. At the same time, the precedent set by the Gangmasters (Licensing) Act 2004 provided a means of introducing discussions on labour standards enforcement in to the Modern Slavery Bill debate.

Link between Labour Abuses and Extreme Exploitation

At the Modern Slavery Bill's first stage, known as House of Commons Committee Stage, the idea of prevention through labour inspection and labour standard enforcement gained traction with the Labour Party. Labour tabled a broad amendment on the GLA, requiring the Home Secretary to review its remit and based on that review to extend it where necessary. The response of Karen Bradley MP, then Minister for Modern Slavery and Organised Crime, to the amendment in the Committee debate was fascinating. She rejected the notion that there was a need for the GLA's work to reach beyond its limited remit and talked of the range of UK labour inspectorates operating in other sectors. In doing so she foregrounded labour rights abuses against migrant workers across the UK labour market and said the government was 'determined effectively to tackle labour exploitation'.[19] Her response covered the work of the national minimum wage inspectorate and the Health and Safety Executive as well as addressing agency worker regulation. She highlighted the work of these agencies in proactive enforcement and providing protections to workers. This debate signaled an important shift from a simplistic victim and criminal narrative to one of degrees and shades of exploitation found across the labour market.

The GLA was again the subject of debate during the next phase of the Bill, Commons Report Stage. Labour tabled an enabling clause to give the Secretary of State the power to broaden the remit of the GLA, if she had evidence to do so. This time amendments were also tabled by a Conservative backbencher Stephen Barclay MP, a strong advocate for the GLA, calling for the authority to be given increased powers.[20] At this point the Minister for Modern Slavery's response revealed an understanding of the link between labour abuses and severe exploitation. She stated:

---

17 C Robinson, 'Working Paper 01: Preventing Trafficking for Labour Exploitation', Focus on Labour Exploitation, 2014.

18 Gangmasters (Licensing) Act 2004, Clause 26 (2), retrieved 2 May 2015, http://www.legislation.gov.uk/ukpga/2004/11/section/26

19 K Bradley, Modern Slavery Bill Committee Session 10, UK parliament, 2014, retrieved, 18 February 2015, http://www.publications.parliament.uk/pa/cm201415/cmpublic/modernslavery/141014/pm/141014s01.htm

20 House of Commons, Modern Slavery Bill Notice of Amendments, UK parliament, 30 October 2014, retrieved 25 February 2014, http://www.publications.parliament.uk/pa/bills/cbill/2014-2015/0096/amend/modernslaveryaddednames.pdf

> Looking ahead, the GLA is well placed to tackle the serious worker exploitation that lies between the more technical compliance offences investigated by HMRC[21] and the serious and organised crime addressed by the National Crime Agency.[22]

In her remarks, the Minister took a relatively progressive approach in the anti-trafficking sphere, in setting out a range of exploitative labour practices, from labour abuses including non-payment of the minimum wage as investigated by HMRC, to labour exploitation dealt with by the GLA. Her response turned the spotlight on the role of government agencies such as the HMRC national minimum wage inspectorate, and provided an opportunity to critique their failure to actively prevent labour abuses from descending in to labour exploitation on the spectrum that the Minister herself identified. For years labour rights and anti-trafficking activists have locked horns on the limiting nature of anti-trafficking responses, that only seem to allow for consideration of the most severe labour exploitation, whilst prolific labour abuses seemingly do not warrant consideration. At the very least, during the debate on the Modern Slavery Act, a link between labour abuses and 'serious worker exploitation' has been drawn, prising open a space in which to advocate for workers' rights as a means of preventing trafficking from taking place.

In the House of Lords, parliament's second chamber, Peers were receptive to discussion on labour regulation and even keener than MPs in the Commons to understand the drivers of severe exploitation in the UK labour market. The Liberal Democrat Party Peer Baroness Hamwee tabled an amendment that acted as a step forward in the way in which trafficking for labour exploitation and forced labour are conceptualised and addressed. Her amendment, entitled 'exploitation', called for a review of the Modern Slavery Act, once enforced, along with relevant laws establishing labour inspectorates, to assess whether they protect victims of exploitation.[23] Whilst this amendment was problematic in its use of the vague and undefined term 'exploitation' it made an important link between prolific labour abuses, trafficking for labour exploitation and forced labour and the response of labour inspectorates.

Throughout the Act's progress, the growing parliamentary concern with preventing and identifying the full range of labour exploitation served to lift the veil from the market deregulation measures the Bill was meant to obscure. While the government had committed to rolling back the labour inspectorate infrastructure in the name of 'deregulation' and austerity, the debate on the Modern Slavery Act led to a reversal of certain deregulation measures as labour inspection agencies were instead partly boosted. Throughout the debate on the Act the government response to the need to expand the role of the GLA was that the Employment Agencies Standards Inspectorate (EAS) is already operating in the sectors outside of the GLA remit. The EAS oversees the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Businesses Regulations 2003, yet its resources were drastically cut to a skeleton staff of three in late 2013. Experts have pointed out that on a shoe-string budget the EAS has barely had the resources to conduct basic paper checks let alone proactive labour inspection.[24] One week before the House of Lords Report Stage, the government committed to increasing resources to the EAS, doubling EAS resources this financial year and potentially increasing it again for the financial year 2015–16, in order to increase staff and conduct more targeted enforcement. This represents a significant u-turn by the government from almost total disbandment of the EAS prior to the Modern Slavery Act debate to a redoubling of its resources.

The final major attempt to introduce a new Clause to the Act on labour inspection and regulation came from the Bishop of Derby in the House of Lords Report Stage. His amendment provided for review of the remit and resources of the GLA and had wide support in the House. In response the Government Minister Lord Bates referenced the government's deregulation agenda, citing concerns about placing financial burdens on business.[25] Despite these reservations Lord Bates returned to the House of Lords at

---

21 Her Majesty's Revenue and Customs, the agency responsible for administration of taxes and the national minimum wage in the UK.

22 K Bradley, Modern Slavery Bill Report Stage, UK parliament, 2014, retrieved 18 February 2015, http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141104/debtext/141104-0004.htm

23 Baroness Hamwee, Modern Slavery Bill, New Clause 100, UK parliament, 2014, retrieved 20 February 2015, http://www.publications.parliament.uk/pa/bills/lbill/2014-2015/0051/amend/ml051-IV.pdf

24 Construction, 'Minister Resorts to Myths When Opposing Gangmaster Licensing—UCATT', Construction, 2010, retrieved 25 February 2015, http://www.construction.co.uk/construction_news.asp?newsid=120309

25 Lord Bates, Modern Slavery Bill Report Stage, Official Report, col. 1713, UK parliament, 2015, retrieved 1 March 2015, http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150225-0002.htm

Third Reading with an amendment to insert the new Clause 'Gangmasters Licensing Authority',[26] which commits the government to a review of the GLA's role. When introducing the amendment the Minister stated:

It is obvious that there is a shared interest right across the House in increasing the GLA's effectiveness and indeed that of all the agencies engaged in the fight against worker mistreatment.[27]

He went on to say that the government shared the commitment to considering how the GLA 'can tackle and punish those that abuse, coerce and mistreat their workers'.[28] This amendment is weak; it commits the government to an amorphous consultation, that risks providing them with the opportunity to further divert the GLA from its labour inspection role towards crime control or immigration enforcement. In this respect the amendment could do more harm than good, and yet it also offers advocates an opportunity to reinforce the importance of the GLA's work to enforce labour standards and protect vulnerable workers.

Lessons for Advocates

The focus of attention on immigration, deregulation and now slavery in the UK has provided a unique opportunity to reframe the human trafficking debate to incorporate the central importance of labour rights. It has opened up the possibility of debate on the negative impact of our flexible, migrant dependent labour market on labour standards, and the link between deteriorating labour standards and severe exploitation. The Modern Slavery Act acted as a diversion from hostile migration control measures and labour market deregulation. However it has simultaneously provided space for debate about labour rights and the rights of migrant workers to be heard by those in power, free from the traditional associations with polarising trade union or pro-immigrant politics.

The UK Modern Slavery Act experience provides some useful lessons to advocates. Primarily that unless we seek opportunities to make labour rights central to anti-trafficking law and policy, we will instead find ourselves with legislation that purports to protect the rights of workers and yet achieves the opposite. When faced with the not-so-hidden agenda to use the modern slavery rhetoric to deflect concerns about immigration and deregulation measures, it is tempting to turn advocacy attention elsewhere for risk of being seen to support such cynical moves. However, discussions with migrant community organisations and trafficked persons in the UK suggest that we do not have that luxury. As migrant rights and labour rights are being eroded to the point at which exploitation flourishes, when a small window of recognition of that fact by the government opens up it should be seized, albeit cautiously.

Many argue that human trafficking can be used to create a convenient state-centric hierarchy of victims, ignoring the structural obstacles inherent in capitalism that prevent labour standards from being met. Rogaly, for example, suggests that from the outset a core driver of the Modern Slavery Bill in the UK was an effort to move the public attention away from the 'range of ways in which capitalism itself creates, perpetuates, and relies on forms of unfree labour'.[29] Others such as Fudge highlight the dangers for advocates of engaging in the Modern Slavery Act debate.[30] She argues that by linking the human rights of exploited workers with the modern slavery agenda advocates 'reinforce, rather than challenge an approach that emphasises the criminal law and border controls'.[31] The link between border security and anti-trafficking efforts has been well documented in issue 2 of this journal, and the threat of immigration enforcement action against exploited individuals who enter the trafficking system is very real. The opportunity to disrupt irregular migration flows that the trafficking framework provides has long held appeal to states.

---

26 House of Lords, Amendments to be Moved on Third Reading, Modern Slavery Bill, p.1, UK parliament, 2015, retrieved 1 March 2015, http://www.publications.parliament.uk/pa/bills/lbill/2014-2015/0098/amend/am098-a.pdf

27 Lord Bates, Modern Slavery Bill Third Reading, Official Report, col. 243, UK parliament, 2015, retrieved 5 March 2015, http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150304-0001.htm#15030468000814

28 Ibid., col. 244.

29 B Rogaly, 'Immigration Politics, Slavery Talk: The case for a class perspective', Open Democracy, 2015.

30 J Fudge, 'The Dangerous Appeal of the Modern Slavery Paradigm', Open Democracy, 2015, retrieved 5 May 2015, https://www.opendemocracy.net/beyondslavery/judy-fudge/dangerous-appeal-of-modern-slavery-paradigm

31 Ibid.

The Modern Slavery Act was conceived with similar goals as much of the anti-trafficking legislation the world over, to reinforce a state-centric rather than victim-centric means of protecting victims from exploitation by placing huge emphasis on prosecuting traffickers. However as with much anti-trafficking debate, the Act also permitted discussion about the impact of ongoing labour deregulation on vulnerable workers, compensation for non-payment of the national minimum wage and the need to properly regulate employment agencies. These are important issues that are rarely tackled by this government from the perspective of the worker and yet this Act, flawed as it is, provided room for that debate. To leave the anti-trafficking or anti-slavery crusade to states would be to turn our backs on the very people we asked states to assist in the first place, simply because we do not like the responses initiated in their name.

Conclusion

Whilst the opportunities for debate on labour rights, and migrant labour rights in particular, were limited in the wider UK political context, the Modern Slavery Act provided a useful vehicle for such discussion to take place. The GLA seemed, like many other UK labour inspectorates, doomed to experience further cuts and increasing reductions to its mandate. However, the Modern Slavery Act pushed senior government ministers to link labour abuses and modern slavery and politicians on all sides to consider the spectrum of labour abuses. Deregulation and anti-migrant policies in the UK actively create the space for exploitation, particularly of migrant workers, to flourish. The Modern Slavery Act provided cover for these policies, whilst the discourse of exploitation has also given the opposition Labour Party the opportunity to talk about immigration. Yet, all the while the Act provided space for advocates to uncover those same policies and motives. The debate on the role of the UK's labour inspectorates in the Modern Slavery Act has provided a useful example of the way in which the conversation on labour exploitation has evolved. It also offers lessons for future advocacy in this area, acknowledging the limitations of the anti-trafficking framework and setting out strategies to address such constraints. Ultimately as advocates there is a need to seize opportunities to bring about change. The Modern Slavery Act provided such an opportunity in a hostile political climate and demonstrates our responsibility to engage in debates on trafficking in order to reclaim the political ground on behalf of and with trafficked persons.

Caroline Robinson is Co-Founder and Policy Director at Focus on Labour Exploitation (FLEX). FLEX promotes effective responses to human trafficking for labour exploitation that prioritise the needs and voice of trafficked persons and their human rights. Caroline has ten years experience in the field of human trafficking at both the UK national and international level.
Email: carolinerobinson@labourexploitation.org