Concept Paper

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# Taking Back Control: Human Rights and Human Trafficking in the United Kingdom

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**Abstract:** Modern slavery and human trafficking are well recognized as significant problems in need of legislation, policies, and actions from a wide range of stakeholders in the United Kingdom. The passage of the UK Modern Slavery Act 2015 is a hallmark of these concerns and has made the UK a world leader in the fight against modern slavery and human trafficking, a legislative development that is in line with the country's broader formal commitment to the international and European human rights regime. In the post-Brexit period, however, there has been an increasing de jure conflation of modern slavery and human trafficking with efforts to curb immigration, leading to a significant questioning of the UK's commitment to human rights. This article locates the consideration of human rights and human trafficking within these broader political trends in order to understand the prospects for meaningful measures to combat modern slavery and human trafficking in the future.

**Keywords:** modern slavery; human trafficking; human rights; international law; immigration; migration

## 1. Introduction

The United Kingdom has a complex and increasingly contradictory relationship with human rights, which has a direct bearing on how it has and will address the problems of modern slavery and human trafficking. Formally and legally, the UK has had a longstanding democratic tradition as a constitutional monarchy, which has historically demonstrated a commitment to human rights at both the domestic and international levels. Its 'Westminster Model' of democracy has influenced the choices of institutional design for countries around the world [1] (pp. 9–29) and it has enjoyed, until recently, a relatively stable two-party system and a constitutional order based on precedent and statutes with a strong underlying principle of parliamentary sovereignty. The Supreme Court, established in 2009, is a relatively new branch of government that has increasingly exhibited its ability to check the power of Parliament, especially in the contestation over the need for a Parliamentary vote on Article 50 in January 2017 and the prorogation of Parliament in August 2019, but also as a judicial body that has the power and legal obligation to protect human rights and fundamental freedoms. Its 15 November 2023 ruling that the government's policy to send asylum seekers and refugees (some of whom may have grounds for protection under the Modern Slavery Act 2015) to Rwanda is unlawful, made direct appeals not only to the existing domestic legal protections of human rights, but also the UK's obligations at the European and international level.

Politically, however, the history of the UK is also one of colonial expansion, imperial imposition, participation in Transatlantic chattel slavery [2–6], and through the process of de-colonization, retraction, which has left deep post-colonial legacies in terms of bureaucratic administration, compromise of fundamental human rights principles, and scepticism of and derogation from international and regional human rights obligations. These historical contradictions between formal and legal commitments and colonial and post-colonial political developments continue to shape debates and policies with which this article is

most concerned [6]. The 2023 ruling from the UK Supreme Court and the continued legal and political debates surrounding the government's proposals to implement a policy to relocate people who enter the UK without a visa or other permission to Rwanda can thus be seen in the larger context of the history of human rights in the Post-War period and the role that the UK has played in shaping the international and European human rights regime.

This contestation over the Rwanda approach and the recent developments in immigration policy are set against a broader history of the UK's relationship to human rights, security, international criminal liability, and past immigration policy. It has been a significant stakeholder and partner in the development and implementation of the international law and practice of human rights, as well as being a key ally of the United States and as a member of the North Atlantic Treaty Organization (NATO), the Organization for Security and Cooperation in Europe (OSCE), the Council of Europe, and until 31 January 2020, the European Union (EU). Alongside these alliances and memberships, it is state party to the 1966 International Covenant on Civil and Political Rights, the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1979 Convention on the Elimination of all forms of Discrimination Against Women, the 1984 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment, the 1989 Convention on the Rights of the Child, and the 2008 Convention on the Rights of Persons with Disability. It has ratified the four Geneva Conventions of 1949, the 1998 Rome Statute establishing the International Criminal Court (ICC) in The Hague, and the 1951 Refugee Convention. Beyond the international law of human rights, international humanitarian law, and international refugee law, the UK was one of the main architects of the 1951 European Convention of Human Rights, ECHR [7], and passed the Human Rights Act 1998, which came into force in 2000 and domesticated UK state obligations under the ECHR into UK law. Most relevant to this article, the UK is also a state party to the 1926 Slavery Convention and subsequent protocols, the 1930 ILO Convention on forced labour, and the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (The Palermo Protocol).

Against these developments in and commitments to international and domestic law with respect to human rights, armed conflict, and refugees, the UK has seen an increasing strengthening of executive authority through making permanent all anti-terror legislation in 2000, one year before the attacks in the US on 11 September 2001, which were followed by the London bombings on 7 July 2005 [8] (pp. 75–91). This pattern of strengthening of executive authority was also evident throughout the 'coronavirus disease 2019' (COVID-19) pandemic, where the UK government engaged in what Robert Thomas [9] calls 'virus governance', that led to a mixed and ever-changing basket of over 200 coronavirus regulations on physical mobility (lockdowns), furlough policies for businesses, and other measures [10]. The passage of the Nationality and Borders Act 2022, the Public Order Act 2023, and the introduction of the Bill of Rights 2022 and the Illegal Migration Act 2023, continue this trend in strengthening of executive authority with the potential to significantly undermine the rights and freedoms of UK citizens, residents, and migrants. These 'top-down' changes to power and governance [11] have been coupled with a growing divide between 'globalist' and 'nationalist' popular attitudes that have led to a highly contested electoral and policy sphere that has seen a relatively strong but recently softening popular support for immigration control [12], a strong law and order frame, and desire for economic sovereignty in the runup to, and wake of, Brexit [13].

These developments in democracy and human rights legislation, policy, and popular sentiment in the UK provide a useful backdrop to examine the evolution and future of anti-slavery and anti-human trafficking law and practice in the UK, which we see as involving significant political and ideological tensions between larger issues concerning law and order, criminal justice, immigration, Brexit, and the regulation of business activity [14]. The tensions and contradictions between immigration legislation and modern slavery legislation have featured across a number of extant studies, which have argued that a

criminal justice approach has led to a set of unintended legal consequences. In particular, there has been a heavy reliance on a perpetrator and victim construct that has undermined the very protections anti-slavery legislation has sought to address [2,4,15,16]. The UK passed the Modern Slavery Act in 2015, which extended the National Referral Mechanism (NRM) to provide support for all victims and survivors of modern slavery in England and Wales; established the UK Independent Anti-Slavery Commissioner (IASC)[1]; set out a number of modern slavery offences; provided a stipulation that organizations with over GBP 36 million annual turnover to publish annual modern slavery statements about how they address modern slavery in their organizations and supply chains; created Independent Child Trafficking Guardians; and put the statutory defence for victims of modern slavery into primary legislation. For many, the Act made the UK a leading country in the world on the issue of modern slavery [6,16], it was a clear indication that the UK was fulfilling its obligations under the Council of Europe Convention on Action against Trafficking in Human Beings 2005, and has led to a flurry of activity from other governments, academics, the media, policymakers, NGOs and other civil society groups, government agencies, and businesses seeking to address the issue. For others, the Act did not go far enough and had several internal contradictions and weaknesses that undermined its intended purpose to combat modern slavery, including no discernible increase in prosecutions, weakness in the provision of remedies for victims and survivors, and the 'self-regulatory' nature of business provisions that have not yet effectively held companies to account [16].

In little over a year following the passage of the Modern Slavery Act, the UK voted to leave the European Union on 23 June 2016, which we argue exacerbated the conflation of immigration and modern slavery. As part of its campaign, Vote Leave leaders constructed strong rhetoric about the UK being at 'breaking point', and that the 'EU has failed us all', such that by leaving the EU, the UK would be able to 'take back control'. Since the referendum, discourses around the control of borders have accelerated within government with the introduction of both the Nationality and Borders Act 2022 and the 'stop the boats' Illegal Migration Act 2023, where issues of modern slavery, human trafficking, and immigration have become further conflated and highly distorted in ways that, in making the case for strong immigration laws, the very commitments and protections set out in the Modern Slavery Act 2015 are undermined further.

In this article, we argue that the future of human rights and human trafficking in the UK is largely a political one. Being strong on immigration, in the wake of Brexit, is seen as a vote winner for politicians across the ideological spectrum [17] (pp. 258–260). Reductionist discourses around 'the politics of the other' may be helpful to win votes [14,18], but they oversimplify a very complex set of issues, stigmatize vulnerable people in need of support, and undermine the necessary protections afforded to them by international and domestic legal frameworks within which the UK operates. We structure our analysis in four main sections. The next section discusses the nature and extent of the problem, drawing on a variety of data sources on the prevalence and patterns of modern slavery and human trafficking in the UK. We then examine the anti-slavery and anti-trafficking organizations in the UK, which engage in awareness raising, advocacy, legal analysis, and frontline support for victims and survivors. We then assess the genesis and impact of the Nationality and Borders Act 2022 and the Illegal Migration Act 2023 in ways that demonstrate the increased risk they would pose to victims and survivors of modern slavery and human trafficking. The final section makes a series of conclusions concerning the future of human rights and human trafficking in the UK.

## 2. Modern Slavery and Human Trafficking in the United Kingdom

Modern slavery and human trafficking are present in all countries of the world, and the UK is no exception [19,20]. Knowing how many people are trapped in modern slavery and human trafficking, however, is a complex challenge; since the problem itself is elusive and victims and survivors constitute 'hidden' and 'hard to find' populations, the enumeration of whom confronts the 'fundamental problem of unobservability' [14,21].

Individuals involved may be working in plain sight, but the conditions of that work and whether they are being coerced, unpaid, and are free to leave their place of work can remain opaque to the observer. Low-wage, low-skilled, and increasingly informalized sectors, such as mining and other extractive industries; textiles, garments, and 'fast fashion'; fisheries; agriculture, harvesting, and food production; and small-scale service industries, such as car washes and nail bars, all have the possibility (and higher probability) of the presence of modern slavery. Drawing on methods already developed in human rights research, epidemiology, public health research, and other disciplines, researchers have applied different methods of estimation to understand the prevalence of modern slavery and human trafficking in different parts of the world, as well as in the UK [21]. Using 'capture–tag–recapture' methods and 'multiple systems estimation' (MSE) across known lists of victims, Silverman [22] and Bales et al. [23] estimated that between 10,000 and 13,000 people were trapped in some form of modern slavery and human trafficking in the UK, a finding that helped galvanize support for the passage of the Modern Slavery Act 2015. Their analysis was based on five different lists of people that had been reported as experiencing modern slavery, including those that appeared in the National Referral Mechanism (NRM)[2]. They used different sets of lists and fit a series of models across these sets to make the best estimate possible, given the sparse coverage of data across the different sources.

The International Labor Organization (ILO) and the anti-slavery organization Walk Free have used surveys administered by the Gallup Organization to collect data on individual vulnerability to modern slavery across several high prevalence countries to produce the Global Slavery Index (GSI). In its 2018 GSI, Walk Free moved beyond the global and regional estimates of slavery provided with the ILO in 2017, by taking the prevalence estimates from countries in which Gallup administered surveys to provide country-level prevalence estimates (*n* = 48) using hierarchical Bayesian models of estimation [20][3]. In this method, respondent-level survey data and country-level predictions were used to provide estimates of modern slavery prevalence across 167 countries in the world. They used individual and country level variables that have a significant relationship with forced labour and forced marriage to develop a base model that achieved a balance between its predictive capacity and its geographic coverage. They then used this base model to extrapolate beyond the original 48 countries in which surveys were carried out[4]. This method yielded an estimate for the United Kingdom of 136,000 victims. For its 2023 report, it used a similar but not directly comparable method, which yielded an estimate for the UK of 122,000 [21].

Data science, artificial intelligence (AI), and machine learning techniques have also been used to analyse known samples of data on modern slavery victims to extrapolate data beyond the original sample to make prevalence estimations [24]. For the United Kingdom, the Centre for Social Justice, working with the National Data Analytics Solution (NDAS), a national police project in collaboration with Accenture, used an initial sample of police logs and documents from West Midlands Police to identify 'tagged' and previously 'untagged' modern slavery 'events' through the application of Natural Language Processing (NLP). For the West Midlands, the initial analysis found 312 victims who were tagged, 374 victims who were previously untagged, and 3511 victims who had been previously untagged in intelligence logs, yielding a total of 4197 victims in the West Midlands. This regional victim count was then multiplied by 23.7, reflecting the aggregate proportion of victims in the West Midlands to the whole of the United Kingdom, yielding an estimation for the UK of 99,469 victims.

This variation in estimations produced to date (10,000 < *n* < 136,000) is a function of several overlapping issues. First, there is a problem of definition of the phenomenon itself. The Modern Slavery Act 2015 does not define the concept, but its accompanying 2021 statutory guidance provides a definition broken down into slavery and servitude, forced or compulsory labour, and human trafficking, which draw on the following three legal instruments: (1) the 1926 Slavery Convention[5], (2) the ILO Forced Labor Convention 29

and Protocol[6], and (3) the 2020 Palermo Protocol[7]. The Home Office's own typology of modern slavery specifies 17 different types of modern slavery offences across the following four main areas: (1) labour exploitation, (2) domestic servitude, (3) sexual exploitation, and (4) criminal exploitation [25]. The complexity of this typology means that prevalence estimation strategies need to be very clear about what is actually being counted [26]. Second, raw samples of data on modern slavery, regardless of their different types, remain biased and incomplete. For example, the NRM[8] data or the data used in the NDAS estimation constitute what is known as a 'convenience' sample [27,28], since they only comprise individuals who have been referred into the system or recorded by law enforcement agencies, and not generated through a random sample procedure like that used in standard social science survey approaches. Third, survey-based approaches confront the problem of having a low probability of finding victims and survivors, while, for the ILO and Walk Free estimates, there is great variation and margins of error in the adopted prevalence estimation approach, which uses a method of extrapolation for the UK based on a sample of high-prevalence countries that do not include the UK.

There thus remains a paucity of rigorous, up-to-date data on the full nature and extent of the problem of modern slavery and human trafficking in the UK. There is, however, a growing body of evidence on the lived experience of victims and survivors [29–32], that is, for example, focused on the health implications of exploitation [33,34][9]. However, there remains a sense that the voices of survivors remain largely marginalised and excluded from policy discourse [32]. Other research has focused on different dimensions of human trafficking across different contexts and geographic areas of the UK [25], as well as a modest and emerging record of successful prosecutions of offenders. The NRM itself has been a valuable mechanism for reporting victims of trafficking, where first responders have raised awareness and greater understanding of the issue. Referrals to the NRM have grown from 552 in 2009 to 16,936 in 2022 (see Figure 1), the rise in which is partially owing to raised awareness of the issue among many different stakeholders but may well represent real term increases over time [35].
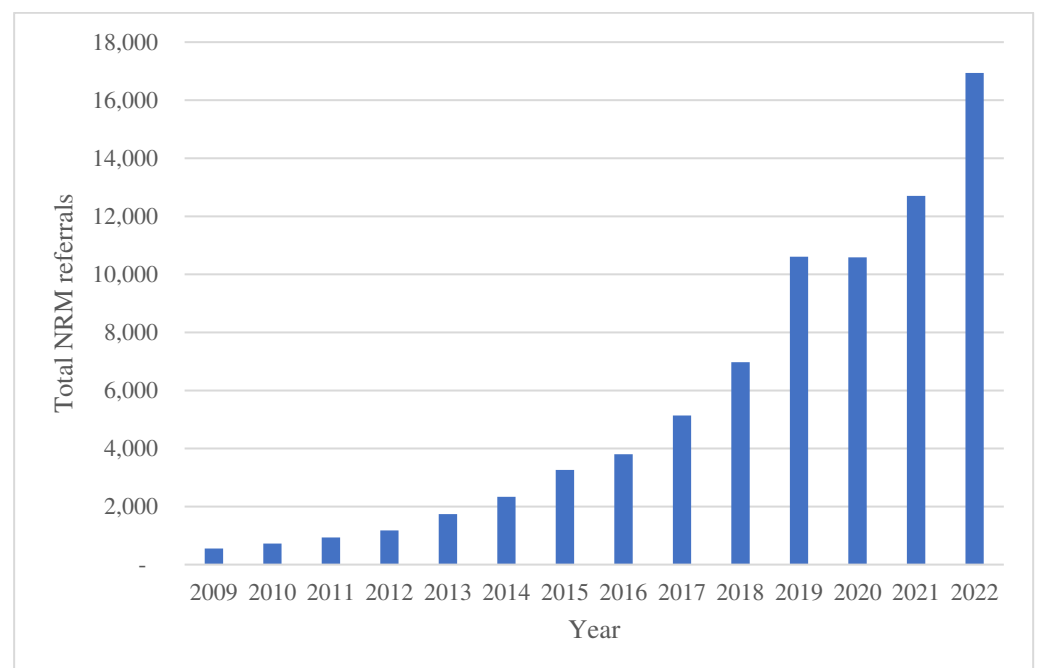


**Figure 1.** National Referral Mechanism (NRM) total annual referrals, 2009–2022 [35].

Another possible contributor to the increasing numbers of child referrals to the NRM in the UK is the emergence and increasing recognition of a form of criminal exploitation linked to the evolution of the UK's illegal Class A drug markets. The model, often coined

'county lines', centres on the development and expansion of drug supply networks away from urban centres out into provincial towns and villages [36]. Specifically, the issue of county lines refers to the migration of illegal drugs across different 'county' jurisdictions using branded mobile phone 'lines'. The issue has been situated as a form of modern slavery, due to the involvement of young people and/or vulnerable adults who are coerced and exploited to move, hold, and distribute illegal drugs and cash [37]. The term 'county lines' has been in use since at least 2015 [37], and has since received significant public, media, and policy attention—notably the launch of the UK Home Office County Lines Program in 2019 [38], the serious violence strategy [39], and subsequent guidance on referral and safeguarding [40]. Such attention and emphasis have no doubt contributed to the exponential growth in the referral of British male child victims of modern slavery to the NRM, who, since the onset of the COVID-19 pandemic in late 2019 [40], have made up the largest singular group in the statistics.

## 3. Civil Society Organizations

The UK has a dense and well-developed civil society, which has a network of anti-slavery and anti-trafficking organizations, including research organizations, institutes, non-governmental organizations, faith-based organizations, and frontline service providers. The organizations are included as part of a broader list of 118 anti-slavery organizations in Table 1, out of a known global total of over 2600 organizations (Global Modern Slavery Directory)[10]. Some of the most prominent organizations include Anti-Slavery International (ASI), the world's oldest anti-slavery organization founded in the 1830s, International Justice Mission—United Kingdom, The Freedom Fund, Hope for Justice, Unseen, Stop the Traffik, the Gangmasters and Labor Abuse Authority (GLAA), City Hearts, Freedom United, the Human Trafficking Foundation, International Organization for Migration—United Kingdom, Hestia, the Survivor Alliance, the Clewer Initiative, and the Salvation Army. These groups work across a wide range of types of modern slavery, human trafficking, and practices relating to slavery and other forms of exploitation[11], including child trafficking, labour trafficking, sex trafficking, forced marriage, early/child marriage, child sexual abuse material, international adoption, international marriage, organ trafficking, child soldiers or children in armed conflict, and trafficking for forced criminal activities.

These organizations raise awareness about the issues, conduct original research on the root causes of modern slavery and human trafficking, contribute to legislative debates and legislative formation, advocate on behalf of victims and survivors, work with business organizations on transparency in supply chains, run hotlines for reporting incidences of modern slavery and human trafficking, and provide frontline services to victims and survivors. There are significant challenges of coordination and coherence across these organizations, as they work on different types of modern slavery and human trafficking, identify different root causes, and seek different solutions for combatting the problem. They also use different 'frames' [14,41] for understanding and addressing the problem, including (1) criminal justice, (2) labour governance, (3) human rights, (4) public health, and (5) sustainable development. James Cockayne, formally at the United Nations University and now the Anti-Slavery Commissioner of New South Wales in Australia, argues the following:

> *Modern slavery gets treated differently by different parts of the UN. There is a human rights machinery that treats modern slavery as a human rights problem. There is another part of the UN system that sees this problem primarily through the lens of labor rights, and another that sees it mainly as a criminal justice problem and talks about trafficking. Depending on the different interests and perspectives, they are holding a different part of the elephant.*[12]

**Table 1.** Anti-Slavery Organisations in the UK (*n* = 118).

| | | |
|---|---|---|
| A21–UK | Freedom Fund | |
| Africans Unite Against Child Abuse (AFRUCA) | Freedom in Disasters | |
| Airline Ambassadors International | Freedom United | Portsmouth Abuse & Rape Counselling Service (PARCS) |
| Anti Trafficking and Labour Exploitation Unit | Gangmasters and Labour Abuse Authority (GLAA) | Rahab Adoratrices |
| Anti-Slavery International | Global Alliance Against Traffic in Women (GAATW) | Rape Crisis Surrey and Sussex |
| Arise | Global Initiative Against Transnational Organized Crime | Refuge |
| Ashiana Network | | Refugee Council |
| Associazione Iroko Onlus | Haven of Light | RENATE Europe |
| Asylum Aid | Helen Bamber Foundation | RESPECT Network Europe |
| Bakhita Centre for Research on Slavery, Exploitation and Abuse | Her Equality Rights and Autonomy (HERA) | Restoring Hope |
| Barnardo's | Hestia | Rotarian Action Group Against Slavery |
| Bawso | Hibiscus Initiatives | Running To Stop The Traffik |
| Black Country Women's Aid | Hope for Justice–UK | Shiva Foundation |
| British Red Cross | Human Trafficking Foundation | Sisters of the Sacred Hearts of Jesus and Mary |
| Business and Human Rights Resource Centre | Institute for Human Rights and Business | Social Change through Education in the Middle East (SCEME) |
| Cambridge Centre for Applied Research in Human Trafficking | International Coalition To End Transplant Abuse In China (ETAC) | STOP THE TRAFFIK–UK |
| Caritas Westminster | International Justice Mission (IJM)–United Kingdom | Stronger Together |
| Chab Dai | International Organization for Migration (IOM)–United Kingdom | Survivor Alliance |
| Children Unite | | TC Online Institute powered by Timea's Cause Inc. Social Enterprise |
| Christian Action Research & Education (CARE) | Invisible Traffick | Thames Reach |
| City Hearts | iPartner India | The Adavu Project |
| Community Safety Glasgow TARA Service | IRRI–Rights in Exile Programme | The Centre for Social Justice |
| Crime Stoppers International | Jubilee Campaign | The Children's Society |
| Crimestoppers UK | Justice and Care | The Clewer Initiative |
| Croydon Community Against Trafficking | Kalayaan | The Code |
| Diginex | La Strada International | The Haven Wolverhampton |
| ECPAT International | Liberty Shared | The Medaille Trust |
| Ella's | Locate International | The Mekong Club |
| Enfield Modern Slavery Team | Made In A Free World | The Rights Lab, University of Nottingham |
| Environmental Justice Foundation | Mary Ward Loreto | The Salvation Army–Hungary |
| Epiphany Trust | Mayak Foundation | The Salvation Army–United Kingdom with the Republic of Ireland |
| Equality Now–UK | Media Campaign Against Human Trafficking (MeCAHT) | The Snowdrop Project |
| Ethical Trading Initiative | | The Sophie Hayes Foundation |
| European Freedom Network | Midland Heart–Anti Human Trafficking Project | The Voice of Domestic Workers |
| Every Child Protected Against Trafficking (ECPAT UK) | Migrant Help | Trauma Recovery Centre |
| Fifty Eight | Modern Slavery & Exploitation Helpline | UK Independent Anti-Slavery Commissioner's Office |
| Flourish NI | National Society for the Prevention of Cruelty to Children (NSPCC) | Ulula |
| Focus on Labour Exploitation (FLEX) | | Unseen |
| Foundation for Social Change and Inclusion (FSCI)–UK | No More Traffik | Victim Support |
| Franciscan Missionaries of St. Joseph | North Atlantic Fisheries Intelligence Group | Victorious Minds |
| | OxPolicy | WeProtect Global Alliance |
| | Pacific Links Foundation | West Midlands Anti Slavery Network |
| | | women@thewell |

Note: Source: Global Modern Slavery Directory, https://globalmodernslavery.org/directory/ (accessed on 15 October 2023).

Criminal justice approaches focus on offences, acts, victims, and perpetrators, and seek a prosecutorial route to combatting the problem. Labour governance approaches focus on the continuum of labour exploitation, including extreme forms of exploitation that meet the ILO criteria of forced labour, and argue for the greater formal regulation of labour markets and business operations [42]. Human rights approaches ground the work of organizations in a broader set of human rights issues and draw on the array of international, regional, and national human rights instruments and legal frameworks. A related and emerging frame sees modern slavery and human trafficking as human rights and public health problems, owing to the potential of severe impacts on the physical and mental health of those who experience exploitation, which argues for a rights-based, survivor-centred, and trauma-informed approach [43]. Sustainable development approaches see modern slavery and human trafficking as having an inter-connected set of dimensions and factors found throughout many of the United Nations 17 Sustainable Development Goals [44], which include a focus on modern slavery, such as SDG Target 8.7, which calls for states to 'take immediate and effective measures to eradicate forced labor, end modern slavery and human trafficking'.

These different frames are relevant and pertinent to the UK context. The known patterns in modern slavery and human trafficking can be addressed in part by each of these frames. Anti-slavery and anti-trafficking organizations work on legislation and work with law enforcement agencies to seek justice for victims and survivors. Two of the Independent Anti-Slavery Commissioners (IASCs) have had backgrounds in law enforcement and the current IASC was previously the Deputy Children's Commissioner, while the Home Office, the National Crime Agency (NCA), and police forces throughout the UK have specialized units and increased training on how to identify victims and prosecute offenders, activities which fall under the criminal justice frame. The UK has widespread issues with modern slavery, extreme forms of labour exploitation, and trafficking, particularly in the agricultural sector, garment production, and sex trafficking, as well as in small business operations, such as hand car washes and nail bars [14,45]. The long tradition of the UK's commitment to human rights, the Human Rights Act 1998, and the Modern Slavery Act 2015 provide a changing 'political opportunity structure' [46] for organizations to locate the fight against modern slavery and human trafficking in a broader frame of human rights. Structural inequality, income disparities, and the demographics of poverty, educational attainment, and health outcomes in the UK are seen as prime drivers for the risk of modern slavery and human trafficking [47] and feature in the work of anti-slavery and anti-trafficking organizations, patterns that are often addressed through the public health and sustainable development frames. The November 2023 human trafficking report from the House of Commons Home Affairs Committee [48], however, was critical of the lack of engagement between government officials and civil society organizations.

## 4. Immigration, Modern Slavery, and Human Trafficking

Against this backdrop of estimated prevalence of modern slavery and human trafficking and the array of anti-slavery organizations, the issue of immigration has in part confounded the policy agenda and raised significant concerns over the UK's commitment to human rights. The UK represents an attractive country for international migrants [17], and over the last decade has experienced an upward trend in net migration (see Figure 2). Between 2012 and 2014, there was a steady increase in net migration from 162,000 to 296,000. During the European refugee crisis from late 2014, which saw Germany welcome refugees fleeing conflicts in the Middle East and Africa[13], the UK saw a further increase in net migration. In the years between the June 2016 EU Referendum and the early 2020 outbreak of COVID-19, the UK experienced a decrease in EU migrants and an increase in non-EU migrants, which peaked in December 2018, taking total net migration for all nationalities up to 274,000, followed by a decline by March 2020 to 170,000. Between the formal withdrawal of the UK from the EU on 31 January 2020 to September 2020, the UK saw a further decline in net migration to 35,000; however, from December 2020 to June

2023, net migration increased dramatically from 93,000 to 672,000, representing an over sixfold increase during this period.
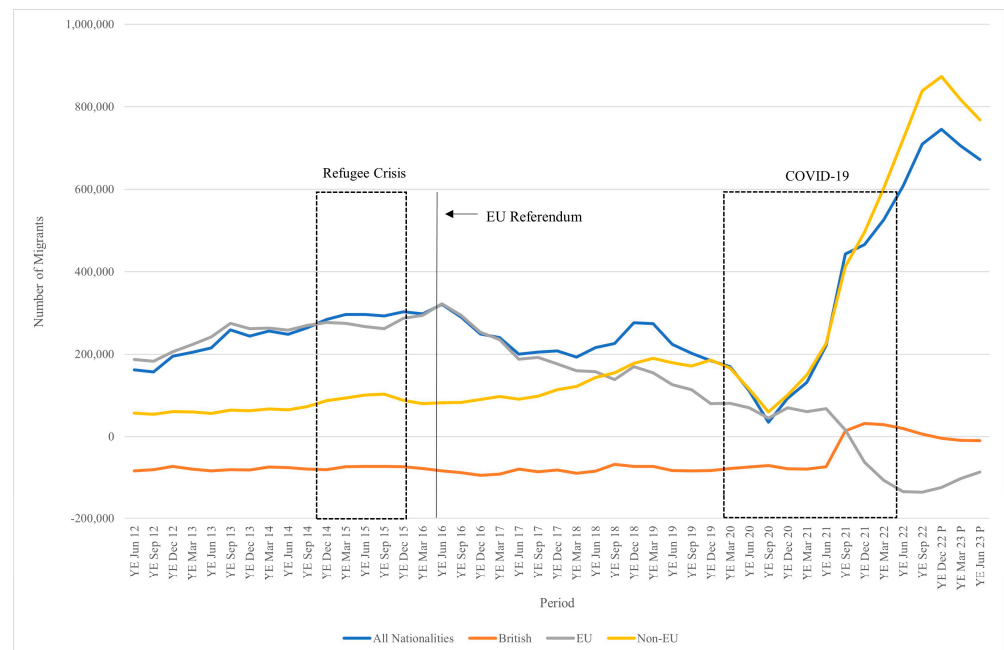


**Figure 2.** Net migration in the United Kingdom, 2012–2023 [49].

These net migration figures include all nationalities, EU migrants, British migrants, and non-EU migrants, while the composition of the type of people migrating to the UK includes specific government categories for those coming for work, those who are work dependents, students and student dependents, family members of those already in the UK, those coming for humanitarian reasons (including Ukrainians since the February 2022 Russian invasion), Hong Kong British Nationals Overseas (BNO), and asylum seekers [49,50]. The recent increases in net migration are primarily explained by a 43% increase in international students, a 30% increase in humanitarian visa routes, and a 24% increase in skilled workers [50] (p. 6). The inclusion of students in these figures remains contested since they stay for a limited period of study with the option to remain for a further two years after completing their studies.

In addition to these headline figures, flows in migration also include people known as 'irregular migrants', who are smuggled across Europe, some of whom can be victims of human trafficking and modern slavery. Home Office records for irregular migration figures show that there were 28,526 'small boat' arrivals in 2021, 45,774 in 2022, and 29,437 in 2023. Owing to the seasonal nature affecting these arrivals, quarter three figures see peaks in all three years with 11,167 arrivals in quarter three of 2021, 20,301 in quarter three of 2022, and 13,397 in quarter three of 2023 [51]. The ebb and flow in these numbers, as well as the overall total, are consistent with the expectations of scholarly analysis of the real impact of pre-Brexit immigration policy and the likely impact of post-Brexit immigration policy [52,53]. For example, Åhlberg and Granada demonstrate that immigration policy after the UK left the EU created multiple forms of irregular migrants, or a 'hierarchy of vulnerability,' such that 'those groups with the fewest rights will regularly be the most vulnerable to labour exploitation because their options are the most limited' [52]. They argue further that 'it is feasible to anticipate that the likely rise of irregular migration due to Brexit, coupled with an increasingly hostile approach in UK immigration policy and the lack of effective enforcement of labour standards, will result in a highly vulnerable workforce' [52] (p. 132). Indeed, the data on potential non-UK victims referred into the NRM between 2013 and 2019 increased from under 2000 to 10,000 across a wide range of practices that fall under the auspices of the Modern Slavery Act 2015. The top 20 countries with referrals include the following: Albania, Vietnam, China, Romania, Nigeria, Eritrea, Sudan, India, Poland,

Pakistan, Slovakia, Ethiopia, Afghanistan, Bangladesh, Iran, Lithuania, Iraq, Ghana, the Philippines, and Somalia [54]. These potential victims were involved in domestic servitude, labour exploitation, organ harvesting, sexual exploitation, and other forms of unknown exploitation [54] (p. 11).

The net migration and NRM figures provide significant context to the ways in which the UK government has sought to curb immigration and conflate immigration and modern slavery and human trafficking in much of its discourse in advocating for a tougher immigration regime [17,52,53]. This post-Brexit conflation builds on and accelerates per-Brexit developments in immigration law, particularly the Immigration Act 2014 and Immigration Act 2016 [16], which for some scholars represent part of a much longer history of 'state control of human mobility...that *produces* "illegal" immigration' more generally [2] (p. 113), or for the UK, what Sedacca calls the 'deputization of border control' [53] (pp. 4–5) and what Kenway calls 'containment' [4] (p. 21 and *passim*). For the UK, this longer history includes the Alien Act 1905, the British Nationality and Status of Aliens Act (Aliens Restriction Act) 1914, the Aliens Restrictions (Amendment) Act 1919, the British Nationality Act 1948, the Commonwealth Immigration Act 1962, the Commonwealth Immigration Act 1968, and the Immigration Act 1971 [52] (pp. 121–122). Developments in immigration policy after Brexit continue these historical trends at regulating entry into the UK, create vulnerabilities, and intersect more overtly with both the intent and the provisions of the Modern Slavery Act 2015.

Against this history of immigration policy developments, the Modern Slavery Act 2015 in many ways represented a 'disruption' in that it formally recognized categories of people within the pool of migrants as well as among UK citizens as potential victims, building on the National Referral Mechanism. The US State Department's Trafficking in People (TIP) Office report for 2023 shows that in terms of victim identification the UK totals in the NRM represented close to 70% of those identified across Europe (i.e., 16,938 out of 24,528) [55]. In its section on Government Response, the Global Slavery Index report of 2023 claims that the UK government had taken more action than any other government in the world [19]. In his 2022 report, Valiant Richey, former Special Representative and Co-ordinator for Combatting Trafficking in Human Beings at the Organization for Cooperation and Security in Europe (OSCE) observes:

> The Special Representative positively notes the UK's establishment of mechanisms and institutional frameworks for identification and referral of modern slavery and human trafficking victims, including its expansive system of "First Responders" which is a driving force for victims' access to the National Referral Mechanism (NRM). The UK's First Responders' victim referral rate is–by far–the highest in the OSCE area and is commendable. The Home Office's pilot NRM Transformation Programme has yielded positive results such as establishing devolved decision making and assistance for child victims of modern slavery and trafficking. The Special Representative acknowledges the leading role of the UK both domestically and globally, such as within the G7 group, to ensure that global supply chains are free from the use of forced labour. The work of the Modern Slavery Policy and Evidence Centre serves as a good practice for the OSCE States to develop evidential research, including with the engagement of survivors to inform anti-trafficking policies. [56] (p. 1)

These plaudits and positive observations, however, stand in contrast to increased concerns over how modern slavery has declined as a priority, particularly over the past few years in part owing to a renewed focus on immigration and the long hiatus between the previous and newly appointed Independent Anti-Slavery Commissioner; concerns raised in equal measure by Valiant Richey and the Global Slavery Index Report, as well as in the report from the Home Affairs Committee on human trafficking [57,58]. In March 2021, after the formal withdrawal of the UK from the EU, the UK Government published its New Plan for Immigration Policy Statement which makes a direct connection between immigration and modern slavery set out in Chapter 6 of the plan[14]. Since assuming office in October 2022, Prime Minister Rishi Sunak has articulated a strong policy discourse to 'stop the

small boats'[15], rhetoric that refers to the influx of immigrants across the English Channel, while the then-Home Secretary Suella Braverman claimed that increases in migration to the UK constituted an 'invasion'[16]. The popular political pressure, especially since the 2016 EU Referendum and the significant increase in net migration since late 2020, coupled with such strong discourse from government ministers has led to the passage of two major Acts of Parliament that not only address immigration and migration, but also modern slavery: (1) the Nationality and Borders Act 2022 and (2) the Illegal Migration Act 2023. The Nationality and Borders Bill was introduced in the House of Commons on 6 July 2021 and received its royal assent and became law on 28 April 2022. Part 5 of the Act (sections 58–69) relates to modern slavery. The Illegal Migration Bill was introduced in the House of Commons in December 2022 and became law on 20 July 2023, which also has provisions on modern slavery (Sections 22–29). The inclusion of modern slavery in both Acts builds on the content of the New Plan for Immigration, while the Illegal Migration Act is in part explained by a strong and contested claim made by Suella Braverman in February 2023 that modern slavery victims were 'gaming the system'[17], even though only 7% of people who arrived on small boats between 2018 and 2022 have been referred into the NRM (6210 individuals) [59] (p. 9). The passage of both bills and the process of passing the Safety of Rwanda (Asylum and Immigration) Bill 2024 enhance and contribute to what Mantouvalou [60] calls 'structural injustice', where a complex of legal frameworks addressing one domain (immigration) create structures that increase vulnerabilities in another domain (modern slavery, forced labour, and human trafficking) [57,60,61].

### 4.1. The Nationality and Borders Act 2022

Part 5 of the Nationality and Borders Act 2022 has a number of sections (58–59) that address the provision of information relating to being a victim of modern slavery or human trafficking, compliance with slavery and trafficking information, the identification of potential victims, recovery periods, assistance and support, leave to remain for victims, legal services, and the 'disapplication' of retained EU law owing to the European Union (Withdrawal) Act 2018 [62][18]. These provisions are motivated by the perceived misuse of modern slavery claims by criminal actors and 'to ensure that "genuine" victims continue to be identified and protected' [63] (p. 4), the evidence for which is contested by campaigners. In an assessment of the implications and concerns with the modern slavery provisions of the Act [63] (pp. 4–5), analysis of the Act argues that it, firstly, further destabilizes and damages the NRM system already in place for the identification and protection of victims; secondly, reduces the available support and protections that are available and accessible to all victims and survivors; thirdly, does not meet the UK's international obligations under the European Convention on Action against Trafficking in Human Beings (ECAT) and the European Convention on Human Rights (ECHR) with respect to support and protection for victims[19]; and, fourthly, was implemented without proper consultation with parliamentarians, the anti-slavery sector, and victims and survivors with lived experience.

The requirement of migrants to provide extra information over and above UK citizens on their claims concerning modern slavery discriminates against them and contravenes the UK's obligation under Article 14 of the ECHR[20]. On recovery and support for victims and survivors, the Act is out of line with the support set out in the statutory guidance published under Section 49 of the Modern Slavery Act 2015, effectively reducing the period of support from 45 days to 30 days, and introduces further discretionary powers to alter the periods and forms of support. The Act is similarly restrictive on the grounds used to grant leave to remain in the UK, ignoring key protections relating to the 'risk of reprisals' and/or 're-trafficking' [63] (p. 21). Finally, while the Act recognizes the withdrawal of the UK from the EU and the disapplication of EU laws, the Trafficking Directive was retained in UK law as part of the Withdrawal Act and thus is not disapplied [63] (p. 24).

Taken together and consistent with the New Plan for Immigration, the conflation of immigration and modern slavery has been formally enacted through the passage of the Nationality and Borders Act 2022. The provisions in Part 5 of the Act in part seek to clarify

the conditions under which migrants can enter the UK as victims and receive the appropriate designation and support; however, the provisions restrict these conditions, require additional information from victims, and are inconsistent with existing legal commitments already set out in UK and European Law, both in terms of specific references to modern slavery and human trafficking and in terms of the broader sets of human rights protections for which there are extant UK state obligations. It is thus clear that the period between the passage of the Immigration Acts of 2014 and the Immigration Act 2016 was 'interrupted' by the passage of the Modern Slavery Act 2015, thus making a formal and enhanced de jure connection between immigration and modern slavery, which has been enhanced and expanded through the passage of the Nationality and Borders Act 2022, and as we shall see, further enhanced with the passage of the Illegal Migration Act 2023.

### 4.2. The Illegal Migration Act 2023

The formal government position adopted in defence of the introduction of the Illegal Migration Bill makes reference to the broken asylum system, the danger of the routes taken by migrants, the failure of migrants to claim asylum and other protections in the first state where they arrive (e.g., Greece, Italy, Spain, and/or France), the presence of criminal and manipulative actors, and the impact providing support for migrants has on the economy, housing, and educational and welfare services. These claims are used further to support the Bill (and later Act) in ways that act as a deterrent to future migrants and create the conditions for a reduction in migration [64]. The position also reiterates the need for the Bill to address the misuse of the modern slavery system and 'put a stop to the endless-merry-go round of spurious, last minute legal challenges that are used as a delay tactic to stop those with no right to be in the UK from being removed' [65]. Like the Nationality and Borders Act, the Bill (and later the Act) creates a stronger de jure conflation between immigration and modern slavery, while enforcement of the Act, despite the government's desire to avoid prolonged legal challenges, does run up against existing international and domestic legal obligations with respect to human rights and modern slavery. In a recent report on the implementation of the EU–UK Trade and Cooperation Agreement (TCA), the European Parliament reiterates the claim that the European Convention on Human Rights remains a legally binding instrument in the UK[21] and expresses its concern over domestic legislative processes, including the Illegal Migration Bill[22].

Sections 22 to 29 of the Illegal Migration Act are dedicated to modern slavery. These provisions disapply protections for potential victims of modern slavery unless they can demonstrate compelling circumstances or are cooperating with authorities in their case [59] (p. 4). They are seen to be 'temporary measures' during the 'exceptional circumstances relating to illegal entry into the UK' and are expected to expire two years after the enactment of the Act [59] (pp. 5–6). In reducing or removing protections and support for the potential victims of modern slavery, the Act fails to recognize the complex and diverse experiences relating to modern slavery that have led migrants to seek entry into the UK and could lead to the removal of individuals who ought to be protected [59,66] (p. 7). The desire for the Act to be a deterrent has thus far had no evidence to support it, such that migrant decisions to come to the UK rarely involve the consideration of immigration or modern slavery legislation, while many victims who arrive have been deceived into making the journey [59] (pp. 11–12). In terms of existing human rights obligations, the Act's provisions on modern slavery contravene Article 4 of the ECHR (and thus the 1998 Human Rights Act), which set out non-derogable rights to assisting victims with their 'physical, psychological, and social recovery' [59] (p. 13). The requirement for victims to cooperate with a criminal investigation of their case during the initial 30-day period puts undue pressure on victims and is not in line with the spirit of the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT).

Across these two Acts, it is clear that, in its ambition to curb immigration and illegal migration, the government has conflated a number of highly complex issues relating to migrants in general and victims of modern slavery in particular, a conflation that is, in

many ways, both a continuation and an acceleration of previous immigration policies with more overt and de jure connections made between these two separate policy domains. Data on net migration demonstrate a variety of reasons [17] why people seek to migrate to the UK from a highly diverse set of countries with their own socio-economic and political contexts. It is also clear that the NRM data on potential victims of modern slavery and human trafficking make up a small proportion of the overall total of irregular migrants coming to the UK, raising serious doubts about the claim that individuals are 'gaming the system'. Establishing further restrictions and requirements on potential victims of modern slavery and human trafficking, including returning to their home country without sufficient guarantees of continued investigation, could lead to possible re-victimization. The provisions on modern slavery, as set out in both Acts, contravene numerous legal obligations that the UK already has in place, and thus declaring that Acts of Parliament will necessarily end unwanted legal challenges is very likely not to be sustained.

## 5. Conclusions

The United Kingdom is an advanced post-industrial democracy with a long tradition and commitment to human rights and fundamental freedoms. It has been the architect and active participant in the genesis of the international human rights regime and the European human rights regime, which includes foundational and supplementary legal texts on slavery, forced labour, and human trafficking. Its Human Rights Act 1998 domesticated the human rights protections set out in the 1951 European Convention on Human Rights, and, in 2015, it was the first country in the world to enact a Modern Slavery Act. The Act itself recognizes that the UK is not immune to modern slavery, forced labour, and human trafficking, while civil society organizations and other stakeholders who have long advocated on these issues have been supportive of this formal recognition of the problem. In the years since the passage of the Modern Slavery Act 2015, the UK has voted to leave the European Union, the successful campaign for which included strong claims that the UK would 'take back control' of its 'money, laws, and borders'[23], and at the same time experienced the challenges of combatting COVID-19 and a significant increase in the flow of migrants.

With its New Plan for Immigration in 2021, the UK Government more explicitly conflated immigration and modern slavery and human trafficking, effectively doubling down on a criminal justice approach to modern slavery and the desire to have a strong immigration regime that provides measures to prevent the misuse and abuse of modern slavery legislation. In our view, previous immigration policy in the years just preceding Brexit had an implicit and de facto consequence on modern slavery and human trafficking protections, while immigration policy in the post-Brexit period, particularly after the passage of the Modern Slavery Act 2015 and the formal withdrawal from the EU, makes both a much more overt and de jure conflation between immigration and modern slavery and human trafficking. Under the auspices of the Immigration Act 2016 and further through the Nationality and Borders Act 2022 and the Illegal Migration Act 2023, reducing support for those who may be victims of modern slavery and human trafficking can undermine the criminal justice approach, as it creates conditions where victims cannot or will not act as witnesses. Thus, since the New Plan for Immigration, it is clear there has been a deliberate and de jure focus on immigration status above victim protection. The politics of Brexit have divided the two main political parties, each of which has strong Eurocentric and strong Eurosceptic factions. Immigration has had an equally divisive impact on the two main parties, with members of the House of Commons sparring over net migration figures, manifesto pledges, policy pronouncements, and new laws to curb immigration. The increasing scepticism and suspicion that there is a misuse of modern slavery protections is coupled with a desire to 'stop the small boats', and rein in net migration. The enhanced focus on the small boats problem, in our view, detracts from the broader issue of labour demand and migration [17], while the enhanced restrictions placed on potential victims of modern slavery and human trafficking appears to put undue focus on a problem that affects

only 7% of small boat asylum claims. This conflation of immigration and modern slavery is in our view, highly reductionist and harmful, since it hides the immense complexity that characterizes those seeking to come to the UK and turns the gaze of the country away from UK victims of modern slavery, precisely at a time when it should not do so.

In the waning days of the current parliament, politicians will be gearing up for a new general election, where immigration will dominate the political agenda and no doubt eclipse the issues of modern slavery, forced labour, and human trafficking. This primacy of immigration also risks the eclipse of the UK's longstanding commitment to human rights and fundamental freedoms, where increasingly, political discourse has focused on the unnecessary barriers and blockages that emerge from adhering to long-fought human rights protections. The UK has parliamentary sovereignty and a relatively young Supreme Court, which will be essential to adjudicate new laws that seek to undermine the commitment to human rights, and which provides a necessary check on government overreach. Even though the full nature and extent of the problem of modern slavery in the UK remains elusive, scholars, practitioners, policy makers, and survivors know that it is not insignificant. Within a human rights frame, modern slavery, forced labour, and human trafficking constitute violations of human rights and human dignity, where the exercise of the rights of ownership that are tantamount to possession creates a population of people who are not free to leave their places of employment or exploitation, thus limiting or denying their own sense of agency.

The future of human trafficking and human rights in the UK is thus not particularly bright. The politicization of issues such as immigration in the past and the present has served to oversimplify complex issues and to undermine human rights protections. The patterns in exploitation remain and further work will uncover their modalities, distribution, and risk factors, while there remains a strong need for advocacy, support, investigation, and where possible, prosecution. Immigration will continue to be a confounding issue, made more complex through the combination of demand for labour outside the EU, attracting overseas students, and supporting individuals who are genuinely fleeing conflict and persecution abroad, as well as those subject to various forms of exploitation. Reductionist policies that lump together this vast array of different and diverse set of individuals risk creating a homogenous 'other' that needs to be stopped at the border; a rhetorical and political strategy that may win votes, but which can cause irreparable and long-lasting harm. Existing commitments to refugee law, human rights law, and modern slavery law offer pathways to navigate these complexities. Casting aspersions on individual victims and survivors and raising additional barriers for consideration of their status does not address the many issues and problems driving modern slavery, forced labour, and human trafficking.

## Notes

1.  The first UK Independent Anti-Slavery Commissioner was Kevin Hyland (2015–2018), the second was Dame Sara Thornton (2019–2022), and after a prolonged hiatus of 18 months, the third is Eleanor Lyons, appointed in October 2023 for an initial three-year period of office.

2.  The five lists include data from: (1) local authorities, (2) non-governmental organisations, (3) police forces and the National Crime Agency, (4) government organisations (e.g., UK Border Force and the Gangmasters Licensing Authority), and (5) the general public [2].

3.  See also: https://delta87.org/2018/12/modelling-risk-modern-slavery-introduction/ (accessed 20 October 2023).

4.  This method is not without its risks, the results of which should report, like events-based data, the confidence intervals around the prevalence figures that have been estimated.

5.  'Slavery, in accordance with the 1926 Slavery Convention, is the status or condition of a person over whom all or any of the powers attaching to the right of ownership are exercised. Since legal 'ownership' of a person is not possible, the key element of slavery is the behaviour on the part of the offender as if he/ she did own the person, which deprives the victim of their freedom. Servitude is the obligation to provide services that is imposed by the use of coercion and includes the obligation for a 'serf' to live on another person's property and the impossibility of changing his or her condition'. See Statutory guidance (2021) 'Transparency in supply chains: a practical guide', Appendix A, available at: https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide/transparency-in-supply-chains-a-practical-guide#annex-a---modern-slavery-definition (accessed on 15 September 2023).

6.  'Forced or compulsory labour is defined in international law by the ILO's Forced Labour Convention 29 and Protocol. It involves coercion, either direct threats of violence or more subtle forms of compulsion. The key elements are that work or service is exacted from any person under the menace of any penalty and for which the person has not offered him/her self voluntarily'. Ibid.

7.  'An offence of human trafficking requires that a person arranges or facilitates the travel of another person with a view to that person being exploited. The offence can be committed even where the victim consents to the travel. This reflects the fact that a victim may be deceived by the promise of a better life or job or may be a child who is influenced to travel by an adult. In addition, the exploitation of the potential victim does not need to have taken place for the offence to be committed. It means that the arranging or facilitating of the movement of the individual was with a view to exploiting them for sexual exploitation or non-sexual exploitation'. Ibid.

8.  The typology was derived from 250 cases in the National Referral Mechanism and 75 cases of perpetrators successfully prosecuted.

9.  See, for example, VOICES: Narratives by Survivors of Modern Slavery, available at: https://www.antislavery.ac.uk/ (accessed on 15 October 2023).

10. The Global Modern Slavery Directory is updated regularly and comprises known organisations around the world with websites, types of modern slavery and human trafficking, presence of hotlines, locations of work, and other attributes; see https://globalmodernslavery.org/directory/ (accessed on 20 October 2023).

11. The list of types is inclusive of a set of practices over which there remains considerable debate as to whether they fall within known legal instruments and legal frameworks for slavery, forced labour, and human trafficking.

12. The Rights Track (2019) 'How is the UN working to end modern slavery?' is available at: https://www.rightstrack.org/how-is-the-un-working-to-end-modern-slavery; see also [20] (accessed on 20 October 2023).

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18. Nationality and Borders Act 2022. Available online: https://www.legislation.gov.uk/ukpga/2022/36/part/5/enacted (accessed on 25 September 2023).

19. These two instruments are of the Council of Europe, not the European Union, and thus still apply, even though the UK formally left the EU.

20    Article 14 states: 'The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status' [emphasis added]. See Article 14 of the ECHR. Available online: https://www.echr.coe.int/documents/d/echr/convention_ENG (accessed on 25 October 2023).

21    The report '[e]mphasises that the ECHR is a legally binding instrument in the UK and that legislative proposals should be compatible with its standards and in line with the rights and freedoms therein; underlines that Article 524 of the TCA provides that cooperation between the EU and the UK is based on the importance of giving effect to the rights and freedoms in that convention domestically; expresses its concerns over discussions in the UK on leaving the ECHR and recalls the concerns expressed by the Council of Europe Commissioner for Human Rights in this regard; recalls the provision in the TCA on the possible termination of this part of the TCA in the event that the UK or a Member State denounces the ECHR'. Available online: https://www.europarl.europa.eu/doceo/document/A-9-2023-0331_EN.html, para 107 (accessed on 19 October 2023).

22    The report '[e]xpresses its deep concern over current legislative processes in the UK that would put these conditions at risk, namely the Retained EU Law Bill, the Data Protection and Digital Information (No. 2) Bill (DPDI2) and the Illegal Migration Bill'. Ibid., para 108.

23    Prime Minister's statement on Brexit: 14 November 2018. Available online: https://www.gov.uk/government/speeches/pms-statement-on-brexit-14-november-2018 (accessed on 29 September 2023).

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