



**MODERN SLAVERY ACT (2015):
A CRITICAL INSIGHT INTO THE
UK'S FIGHT AGAINST SLAVERY
& HUMAN TRAFFICKING FROM
THE VICTIM'S PERSPECTIVE**

A LITERATURE REVIEW

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Modern Slavery is a complex type of crime. It may take many forms starting from the forced labor, servitude, sexual exploitation, organ harvesting, slavery, to trafficking and others. UK's Modern Slavery Act, 2015 is undoubtedly an admirable effort to tackle such heinous crimes in the society however the act is criticized as weak regarding the victim support and wellbeing during and after the identification. All potential victims upon consent are referred at first by the first responders to National Referral Mechanism (NRM) process which is a UK framework adopted in 2009 in line with the council of Europe's directives to identify & support victims of modern slavery. There are two separate guidance's regarding the NRM process one is for England & Wales and the other is for Scotland & Northern Ireland. The aim of this literature review study is to explore the wellbeing status of the modern slavery victims during the post identification (NRM) period and how does the act support such victims. The study finds that it lacks a needs-based support system for victims that addresses issues like safe housing, advocacy, adequate so called "reflection and recovery" time period of support resulting in poor trust and confidence among the victim groups upon the authorities. Moreover, structural changes like amendments to the labor, immigration laws are required to make a long-term meaningful impact on the lives of the victims. At last the author provides some recommendations about the matters affecting the lives of the victims the most.

Keywords: Human rights, Modern slavery act (2015), NRM, Trafficking, UK, Victim

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Acronyms

MSA: Modern Slavery Act

NRM: National Referral Mechanism

TARA: Trafficking awareness Raising Alliance

NCA: National Crime Agency

UKVI: United Kingdom Visas and Immigration

NGO: Non-Government Organization

CA: Competent Authority

RG: Reasonable ground

CG: Conclusive Ground

BACKGROUND

It has been over a century since the transatlantic slave trade has been abolished yet there are about 41 million people around the world today who are trapped in slavery. In Britain no one knows the scale of modern slavery and the number of victims or perpetrators. (Kelly, 2018) The previous nature of the slavery was more visible than it is today. The physical confinement of the past has often been replaced by forms of coercion and control such as debt, fraud and false promises, as well as violence and physical intimidation. The most affected sectors of slavery crimes are as followings- constructions, agriculture, hotel, restaurants, care homes, car washes, and nail bars. (Kelly, 2018)

Modern slavery act (2015) was introduced by the UK government in 2015 to prosecute criminals and support victims of such abhorrent crimes through engagement of multiagency. It increases the police and court power significantly to life term imprisonment to someone convicted, and maritime enforcement power along with preventive & risk order too. Additionally, it introduces new defense for the victims of slavery and trafficking and victim support services. It also requires businesses to publish annual report on their supply chain detailing how they have acted on modern slavery. To monitor and make sure the good practice the law also requires an independent anti-slavery commissioner. Another important aspect of modern slavery act (2015) is it combines several laws into one law. (Schraer, 2019) The nationality and immigration status both plays a vital role in determining what kind of support a potential victim will receive and what will happen with them. When it comes to the refugee status the applicants get five years leave to remain in the country whereas for victims of slavery there are no such provisions. (Schraer, 2019)

Modern Slavery is a borderless crime thus it demands a global action. The UK government works with international partners and stakeholders particularly with those countries whose nationals are the highest number of victims in the UK. In addition to this at multilateral level such as G7, G20, Commonwealth and UN the Government strives to bring about positive changes with a long-term vision to eliminate modern slavery. (UK Home office, 2018) Modern day slavery thrives in vulnerable communities. Such communities are vulnerable because of different factors which are for instance immigration status, lack of skills, jobs, poverty, and language competency so on. (stopthetraffik blog, 2018)

Aim

The aim of the study is to explore the gap in the UK's Modern slavery act (2015) in relation to the support of the victims by reviewing relevant literature. Bearing in mind the severe impact the victims of modern slavery experience the author intends to investigate how does the modern slavery act (2015) support such victim's needs. Therefore, the research questions are as following –

- a. What is the wellbeing status of the victim of modern slavery during the post identification period of NRM?
- b. And how does the MSA (2015) support such victims?

PREVIOUS RESEARCH

At present potential victims are referred by the first responders such as public bodies, home office, local authorities, gang masters, non-government organization to the competent authorities who investigate primarily if someone is a victim or not within five days. NRM or national referral mechanism is a process of victim identification and support. (UK Home office report, 2018)

The NRM framework is described below (Source: National Crime Agency)

(Step 1) First responder: First responders are the organizations who have a duty to notify to the CA. Such first responders are police, border force, Medaille trust, Barnardo's and others. Upon completion of a consent form potential victims are referred to the national crime agency's Modern slavery and trafficking unit who ultimately decides which CA shall involve with the referral

(Step 2) Competent Authority: There are two CA in UK one is Modern Slavery human trafficking Unit and the other is the home office visas and immigration (UKVI) who decides immigration process affiliation with the individuals.

(Step 3) Reasonable Grounds: At this stage CA determines if there is a reasonable ground to believe that the individual is a potential victim of modern slavery. The process usually takes 5 days. In case of positive decision such individuals are entitled to have safe house and a recovery and reflection period of 45 days.

(Step 4) Conclusive Grounds: At this stage the investigation is carried out on whether it is more likely to establish the fact that the potential victims are confirmed victim or not. It may take 45 days or beyond.

In this study the victims of modern slavery include also the trafficking victims. Such two competent authorities for European economic area's national are Modern Slavery Human Trafficking Unit of national crime agency (NCA) and UK Visas and Immigration (UKVI) for Non-EU nationals. These two authorities investigate the cases of respective groups. There are two stages of decision-making process by the competent authorities firstly "reasonable grounds decision" and finally "conclusive grounds decision". In case of being an adult victim and positive decision he or she is entitled to state support whereas in case of child victim local authorities share the responsibilities to support the victim. (UK Home Office report, 2018) It is important to mention that nationality and immigration status plays a significant role in deciding which kind of support will be provided. Later the competent authority search for further evidence to reach a conclusive decision for each case. 5143 people were referred as suspected victims in 2017 which is 35% increase from the previous year. Among them there were 59 % adults and 41% child. The number of national referrals has increased every year since it was introduced back in 2009. Not all the potential victims who are referred to the national referral mechanism are assessed as victim in the end. (UK Home office report, 2018)

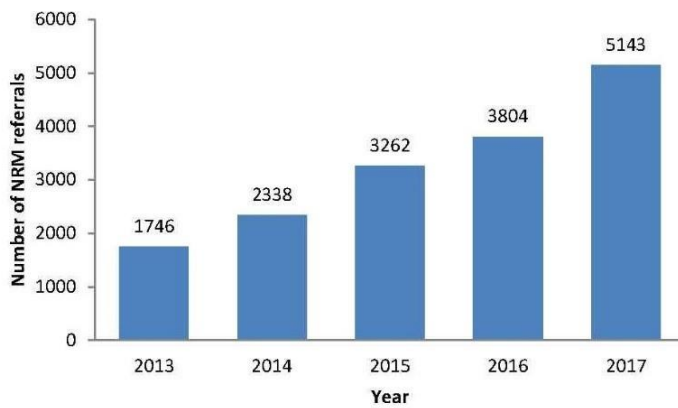


Chart 1: Shows the number of NRM referrals by years. Source: (UK Home office report, 2018)

Collaboration with the source country is an important aspect to tackle the modern slavery crimes. According to the statistics 116 different countries are found from which victims have come from in UK in 2017. It clearly suggests that acting without engagement with others is not good enough to combat such crimes. (UK Home Office report, 2018)

Most common type of exploitation reported in 2017 among the adult victims is labour exploitation (44%), sexual exploitation (39%). Among the child victims most common were similar labor (48%) and sexual (27%). Earlier years statistics show the similar pattern. (UK Home Office report, 2018)

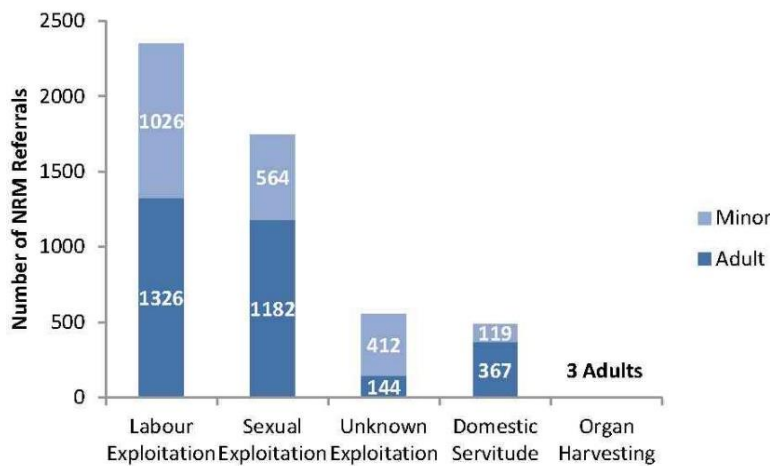


Chart 2: Shows the number of NRM referrals by offence types. Source: (UK Home office report, 2018)

According to the Modern Slavery act 2015, (Section 1, page 1) It is important to note that both committing crime (slavery, servitude, forced or compulsory labour) and recruiting another person to commit the crimes fall in the same definition. Another important aspect is the consent of the victims. According to the act the consent of the victims in relation to forced or compulsory labour regardless of adult or child are irrelevant. (MSA 2015, section 1 page 2)

When it comes to trafficking, the definition is as follows- A person commits an offence if he or she arranges or facilitates another person namely victim with the

intention to exploit him or her. Consent of the victims are also irrelevant (MSA 2015, Section 2 & 4, page 2 & 3)

Regarding the protection of the Victims the act adds additional defense in favor of the victims which are as follows-

“A person is not guilty of an offence if—

(a)the person is aged 18 or over when the person does the act which constitutes the offence,

(b)the person does that act because the person is compelled to do it,

(c)the compulsion is attributable to slavery or to relevant exploitation, and

(d)a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to doing that act.” (MSA, 2015, section 45 page 36)

A similar provision is enacted for the victims under the age of 18. In case of doubts over the age of the potential victims shall be assumed under 18 till further assessment. An independent child trafficking advocate is appointed to represent, advise and serve the best interest of the child victim. He or she is responsible for the wellbeing of the child victims. As mentioned in the Act-

“The Secretary of State must make such arrangements as the Secretary of State considers reasonable to enable persons (“independent child trafficking advocates”) to be available to represent and support children who there are reasonable grounds to believe may be victims of human trafficking” (MSA, 2015 Section 48, page 38)

There are regulations and guidance in the act about civil legal aid and other supports. The civil legal aid is only available after the “reasonable grounds decision” as mentioned in the act –

“There has been a conclusive determination that the individual is a victim of slavery, servitude or forced or compulsory labor, or there are reasonable grounds to believe that the individual is such a victim and there has not been a conclusive determination that the individual is not such a victim.” (MSA, 2015, section 47, page 37)

According to the (MSA 2015, section 49 page 39,40) it is the secretary of state who is responsible of stating the guidance regarding identification of potential and confirmed victims and support for such victims as mentioned. In case of the domestic worker victims it is the immigration rules which make provisions regarding “leave to remain” in the country. (MSA 2015, section 53 page 41)

Support for the adult victims

Victims of modern slavery are provided unique support and advocacy to start a new life and integrate back into the communities. NRM decisions are delivered

centrally while victim support is provided through different arrangements across the UK. In England and Wales victim support is provided by the salvation Army who provides secure housing, financial assistance, advocacy to navigate through the system, legal aid and medical care services through different subcontractors. Such support is provided to all potential victims and their dependents potential victims of modern slavery who receive a positive reasonable grounds decision. Minimum number of days such available support is 45 until a conclusive grounds decision regarding victim status has been made. (UK Home Office, 2018). Afterwards Victims are assisted to move to communities or return to their home country. It is important to note that not all potential victims wish to receive support, many children are supported by local authorities. Potential victims with negative reasonable grounds decision do not receive any support. Besides the salvation Army in Wales survivor care pathway delivers individual plan for potential victims. The survivor care pathway also works with other stake holders to provide the best services to the victims of slavery. Additionally, people who are leaving the NRM support system are referred to the department for work and pensions for “supported handover” through safe houses and job centers. Department for work and pensions also closely cooperate with the frontline staffs to improve services and the Salvation Army to make sure proper support for the victims. (UK Home Office, 2018)

In Scotland Two NGOs -TARA and Migrant help offers support for adult victims. Such support includes housing, financial and others. TARA supports sexually exploited adult female victims whereas Migrant help supports others. In Scotland the minimum number of days victims are supported is 90. After this period of statutory support and before making reasonable grounds decision in both circumstances TARA and migrant help may provide services to the victims on a case by case basis. Scottish government has agreed to fund both organizations to facilitate greater victim care and supports. It also provides psychological trauma care for the trafficking victims. (UK Home Office, 2018). In Northern Ireland Migrant help provides support to the male victims of modern slavery and Lisburns women’s aid together with Belfast are responsible for female victim support. Support is available right from the beginning when a referral is made to the NRM or an imminent referral is under considerations. Like England and Wales only after a positive initial assessment (reasonable grounds) of victimhood a support of 45 days is provided which are named as reflection and recovery period. Depending on the immigration status the victims shall be guided later to the welfare system or face a deportation. Kind of supports or services include safe housing, legal aid, health care assistance, repatriation assistance. (UK Home Office report, 2018)

support for the child victims

Different children’s services under the local authorities are to provide supports to the child victim. For unaccompanied asylum-seeking children 1000 training places available for carers and support workers to make sure good and outstanding services. Children at high risk of being re-trafficked or going missing are also included in this group. Police is tasked to take the biometric information which will help to identify missing children and support the investigation process. Additionally, independent child trafficking advocates help such child victim to get their voice heard through advice and necessary supports. This service is about to roll out throughout the nation (England and wales). It will provide both one to one support for unaccompanied children and to collaborate with other workers. (UK annual report on Modern Slavery, 2018). Child trafficking protection fund is

another means to support child victim in home and abroad. It works with seven organizations which are Coram children's legal center, ECPAT UK, International organization for Migration, AFRUCA, Bernarda's, The children's society, Unseen. Their tasks involve around policy research, consultancy services, training for support workers, arranging safe accommodation for victim children, therapeutic services, improving early identification of exploitation. Such services are often gender or nationality specific only due to greater vulnerability. (UK annual report on Modern Slavery, 2018). In Scotland under the current legislation it is the local authorities who are responsible to provide support to the child victims regardless of the nature of abuse the child has suffered. If the child has no parents living in the UK, he or she will have an independent child trafficking guardian. Such guardian supports and represents the child. Scottish Government at present funds two organizations Aberlour childcare Trust and the Scottish Refugee council to perform the guardianship service to all unaccompanied children who have been trafficked. However, roles and responsibilities of statutory independent guardianship are under consultation in 2018/19 and not in force. (UK annual report on Modern Slavery, 2018). In Northern Ireland a child victim who has been referred to NRM get an independent guardian who supports and represent the child. Such person is trained by the office of Immigration and thus able to advice on asylum and immigration matters. (UK annual report on Modern Slavery, 2018)

Research Gap

The Modern Slavery Act 2015 was a pioneering piece of legislation that shows the UK's commitment to eradicate this horror. Among its many achievements, the act established new protections for recognized victims of slavery. However, it did not secure a pathway for their recovery. (HC Work and pensions Committee, 2017) It was revealed in various reports that after 45 days of support many become homeless vulnerable to exploitation again. Safe shelter, lack of advocacy and immigration status was the key issues affecting victims after the so-called reflection and recovery period of support. For the victims the transition to mainstream welfare depends on many ifs and buts. (Samantha Ferrell-Schweppenstedde, 2016). There are other flaws too in NRM system for instance the decisions at any stage cannot be appealed and there is no such legal aid in place for the potential victims before the reasonable grounds positive decision (Initial assessment). Additionally, there are no data kept for the victims after 45 days. Due to re exploitation of victims there has been cases where the same victims have been through the NRM process multiple times. (HC Work and pensions Committee, 2017) Therefore, a careful analysis of the Modern slavery Act 2015 regarding its victim support mechanism and protection is essential. The study compiles material on victim's status in relation to their state funded wellbeing.

Theoretical Framework

Social conflict theory of crime

Marxist elements are prevalent in the critical criminological theories. Conflict theories take a different approach to view crime which was due to the inability to explain crimes by the contemporary theories during socio political situation in 1960s (Adler, Mueller, & Laufer, 2001). Critical criminologists establish their arguments based upon social structure, power, and rule over the working class (Giddens, 2011). According to conflict theories social unrest occurs when the distribution of power, wealth and opportunities are not equal in the society. Therefore, crime is caused in society by class conflict where a certain group or class is controlling the laws and by means of power, exploitation to serve their own interests. “Thus, Marx does not see crime as the willful violation of the common good, but as ‘the struggle of the isolated individual against the prevailing condition’, and this is sometimes called as primitive rebellion.” (Vold, 1998). According to Marx, legislation supports the interests of rich people. Marxist idea of crime based upon the concept of “demoralization”. According to this concept the people who commit crimes are desperate, angry, needy and frustrated. Crime should be considered as a social status rather than psychological, biological or behavioral (Turk, 1969 Turk, A. T. 1969). The theory can also relate to social reality of crime where the public conceptions of crimes are built within the political parties too to get support and stay in power. (Quinney, 1970)

Method

Ethical considerations

Avoiding or mitigating harm by maintaining ethical principles is the key to any research. At the very outset the researcher consulted the subject matter with the responsible teacher for consent and guidance. There are no human participants in this study therefore all the materials are text based. However, the author knows that own judgements, opinions, prejudice knowledge, fabrications must be set aside from the study. To avoid plagiarism the sources have been mentioned both as textual reference and at the bottom in bibliography. Different newspapers articles, public awareness leaflets, organizational reports, government agendas, and other unscientific often politicized materials have been excluded from the research however; those were taken into consideration in the background and literature review section of this paper. The author strives to maintain anonymity. There is no mention of any victim’s name or identification to avoid tracing back or misuse. The author remains vigilant to his best to refrain from all academic misconducts.

Data collection & Analysis

Data have been searched initially by the help of different key words like “Modern slavery Act 2015”, “UK”, “gap” “victim”, “trafficking” “human rights”. The author assumes these are the key words highly relevant to the subject of the study. At the beginning the primary or raw data are huge in quantity and quite scattered. The author chooses to maintain rigid criteria for data collection due to avoid biasness in the process therefore newspapers writings and similar articles from unscientific sources are not taken into considerations. The academic library database into which the author has the full access has been used to collect all the

materials. Below is the list of inclusion and exclusion criteria which have been followed while collecting the relevant literature-

Including Criteria	Excluding Criteria
a. The article must be peer reviewed and in English	a. The article is not peer reviewed and in other language.
b. Year of publication is 2015 and onwards.	b. Year of publication is before 2015
c. Articles are retrieved from academic databases	c. Articles are from nonacademic databases like newspaper, magazine
d. Articles relevant to the research topic	d. Articles not relevant to the research topic
e. The articles are got to be published in recognized journal.	e. Articles which are not published in any recognized journal.

After application of the inclusion and exclusion criteria the author has found the following six articles most relevant to the research problems. Therefore, these six articles are chosen for content analysis. The study intends to analyze the data by qualitative content analysis. Alan Bryman's (2012) four stages qualitative content analysis of data has been applied. Methods for data analysis must be systematic, disciplined, able to be in transparent and described (Punch 2005). Qualitative content analysis focuses on the features of language of the text together with contextuality. (Budd, Thorp, & Donohew, 1967; Lindkvist, 1981; McTavish & Pirro, 1990; Tesch, 1990).

Qualitative content analysis has certain advantages among all the most important the author thinks are as follows –

- a. It is highly interpretive method which is pretty much required in legal and criminological studies
- b. Inexpensive
- c. Can cover large texts
- d. Flexibility / less rigidity (Unlike quantitative method texts or coded words may belong to multiple categories at the same time)

However, there are disadvantages too for instance it can be very labor demanding in terms of coding and other process (Kondracki and Wellman 2002). A researcher should at the beginning decide what to analyze manifest or latent content of the text (Graneheim and Lundman 2004). In this study the author takes both contents into considerations. According to Elo and Kyngäs (2008) there are two approaches of the qualitative content analysis process which are inductive and deductive. The researcher should choose either of them by looking at the availability of the collected data. Due to scarcity of data the author chooses to apply inductive approach for this study which means concepts shall be derived in the end after critical analysis. The importance of content analysis lies in its exploratory nature which a quantitative method cannot serve. (Kohlbacher F. 2005)

The specific type of content analysis approach chosen by a researcher varies with the theoretical and substantive interests of the researcher and the problem being studied (Weber, 1990). Therefore the content analysis has been chosen as a best fit method to analyze the data since in this study the research problems are to find out the “what is the status of victims of modern slavery during the post NRM

period of identification” and how does the “ modern slavery act 2015 support such victims”. Here the author performs a series of tasks which are reading the material repeatedly, look for key words and identification, making notes/list as reading goes on, linking the list in a meaningful way with one another, forming a category and final reading. So, themes and categories emerge from the data through the researcher’s careful examination and constant comparison (Elo and Kyngäs 2008)

In the table below the list of articles are mentioned together with author’s name, publication year, journal’s name and a synopsis.

Title	Author, year And Journal	Abstract
a. The UK modern slavery Act 2015 Three Years on	Mantouvalou, Virginia, 2018, Modern Law Review	The article is a critical assessment of the MSA act 2015. It says that the act fails to increase prosecutions and provide enough remedies to victim, relying on criminal laws alone cannot solve the problem of labor exploitation which requires political will as well, and the act is too weak in fighting slavery by businesses in their supply chains.
b. Life After Trafficking, A gap in the UK’s modern slavery efforts	Roberts, Kate, 2018, Anti-Trafficking Review	The Article criticizes the MSA 2015 as weak and can offer little help to the victims and crucially it is not a needs-based approach. The home office cannot ensure either re trafficking of the victims. Victims fail to integrate into the society due to immigration policies.
c. Between Globalization and Brexit, Migration, pay and the road to modern slavery in the UK hospitality Industry	Steve French, 2018, Research in Hospitality Management	As a neo liberal state UK employers reduce labor cost and offer a compromised working practices to employees. These exploitative practices pave the way for modern slavery. Lack of political will and event like Brexit will only help to thrive such slavery or malpractices in Britain’s hospitality sectors.
d. Am I Free Now, Overseas domestic workers in Slavery	Mantouvalou, Virginia, 2015, Journal of law and Society	The article focuses on overseas domestic workers in UK. Such visas compel them to work under the same employer no matter how abusive they are with the employees. After escape from such employers, employees become undocumented and trapped in some another vicious

		circles. The article investigates if such visa is contrary to the MSA act 2015.
e. The Modern Slavery Act (2015): A legislative commentary	Haynes, Jason, 2016, Statute Law Review	The article talks about the significance of MSA 2015, it argues that state is the right actor to intervene in such grave crimes. It further analyzes strengths and weakness of the act when it comes to practice.
f. Child trafficking victims and legal guardians: Exploring the fulfilment of the EU trafficking directive in the context of the UK modern Slavery Act 2015 – Best practice or not fit for purpose?	Amy Weatherburn, Yvonne Eloise Mellon, 2019, New Journal of European Criminal Law	Children as a trafficking victim are more vulnerable and therefore require more legal protection. EU member states are required to have guardianship in case of child victim. It is a matter of worry that many such victims have gone missing in England and Wales over past few years. This article examines a comparative analysis between MSA 2015 and EU Trafficking directives when it comes to child or unaccompanied minor victims.

According to the Bryman (2012) the collected raw data firstly coded which is large or bulk in size, there could be anything which the researcher thinks are important may appear at this stage for example, repeated phrase or date. It is also called indexing or labeling. Secondly the raw data further divided into categories. It is the second reduction stage of the data. Data should group together at this stage belonging to a similar category. During the third stage a more abstract generic meaning shall be developed which will have inter connective relation among the categorical data. At last at the fourth and final stage themes shall be developed which is more general in nature. Therefore, in content analysis flow of the data starts from specific to general in nature. (Kohlbacher F. 2005) The table below shows the four-stage content analysis.

Indexing	Category	Concept	Theme
“obligation to create guardianship scheme” “no consideration of the need” “trafficked children going missing from care” “continuing control of their traffickers” “complex	Victim wellbeing	Victim centric Approach	Needs based Support

<p>criminal justice process and immigration procedure” “trusted adult”</p> <p>“Glaring inadequacies”</p> <p>“protection and support”</p> <p>“punishment of victims”</p> <p>“secondary victimization of victims”</p> <p>“inadequacies.</p> <p>Accommodation, medical psychological assistance”</p> <p>“ Brexit” “difficulties... reintegration of victims”</p> <p>re trafficked...secondary victimization, “threshold for the victim” “failed to increase prosecution...provide remedies” “heavy reliance on criminal law”</p> <p>“no political will”</p> <p>“structural factors...legal structures” “MSA is too weak” “scope for improvement” “ right to work” “Leave to remain”</p> <p>“does not enable ...needs based support” “ no assurance ...that victims are not trafficked again”</p> <p>“governments response...disappointing”</p> <p>“victims becoming...destitute trafficked” “visas tie workers to an employer by making it unlawful for them to change employer” “Having escaped, they have become undocumented”</p> <p>“visa is contrary to the prohibition of slavery, servitude, forced and compulsory labour”</p>	Prevention and prosecution		Victim’s Trust
	Political goodwill	Policy factors	Structural Reforms

RESULTS

Lack of needs-based support

Although the United Kingdom claims to be the initiator of the Modern slavery act in Europe the wellbeing of the victims of the modern slavery are precariously compromised. A victim centric approach is overlooked during and after the identification of possible victims. The supports and services which are received by the potential and confirmed victims are inadequate and jeopardize victims further to re exploitation or re trafficking rather than helping to get back to secured life(Kate, 2018) As said by the Government NRM is not a rehabilitation alternative for the victims of Modern Slavery then the question is if there is any such rehabilitation exist in the system? The answer is simply No. A restrictive support system does not fit the needs of the victims. Lack of safety and protection are found when it comes to child victims as many such victims went missing. The safeguarding system of such victims should be for victim focused and robust for example at present a child victim cannot be accommodated outside the local area where they were found in first place. Various reports also mentioned that mere acknowledgement is not enough England and Wales need to do more to implement section 48 of the act. Therefore, the obligations regarding the guardianship of the child victim set by the EU law is yet to be fulfilled in England and Wales. Most notably the differences & inconsistencies about support of child victims among different parts of the UK are striking.(Weatherburn *et al*, 2019) One of the biggest indicators of not fulfilling the needs of victims is less conviction rate compared to the number of confirmed victims since they disappear and seldom appear in court as witness. However, an advantage of being witness at court is to be possibly having a positive leave to remain in the country for up to 12 months. Though in practice to have granted leave to remain on the similar ground depends a lot on luck and having a skilled lawyer. (Jason,2016)

Lack of security and trust

Modern slavery Victims are not treated equally as positive asylum seekers or refugees when it comes to leave to remain and access to benefits. The lesser support and benefits are available to the victims the more they will fear the justice system which will in return help the traffickers and exploitative employers to exercise greater control over the potential victims. The authorities despite all outstanding rhetoric and provisions tremendously lack victim based or centric support system. (Kate, 2018). It is more criminal or punishment centric (Mantouvalou, 2018). It has been the case where so many times the victims escaped from the safe home and just went through the NRM repeatedly. Quite shockingly the authorities do not keep record of such numbers of victims going through the NRM system second time. It is understandable that without proper prospects of good life and access to support system distrust among the victim groups are high. Victims often fear deportation, threats from traffickers which often involve nearest relatives of victims as well, loan bondage and repayment to the traffickers. Victims of overseas domestic workers are afraid of authorities like police, labor union, and immigration. Overseas domestic workers visa tie employees with single employer which facilitates to become more vulnerable to exploitation. Being undocumented or after escape from abusive employers overseas domestic workers often do not want to leave the country mainly because of economic needs which they have back home in the country of origin. The sense of helplessness and powerlessness are evident among this group of victims since the job category of domestic work is much unregulated and not unionized. The

nature of the job is different from others too as the employees often stay at night in the same house with the employer. (Mantouvalou,2015)

Structural barriers

Lack of political will is apparent in the execution or practice of the acts. No matter how seriously the politicians take the matter the decisions at political level are taken elsewhere which are often influenced by for instances trade unions, business lobbies and other influential groups. Tackling the issue of labor exploitation cannot be resolved by only stricter criminal law without empowering the labor rights. MSA applies stricter laws for individual offenders whereas for businesses it is still soft (Mantouvalou, 2018; French, 2018). Immigration law reform should be the key and at the heart of the structural reforms. It is because often victims of modern slavery suffer from insecurity due to legal right to work & stay issues and exploitative employers often use immigration status factor too to exercise absolute control or maneuver employees. The victims of modern slavery with even a conclusive grounds positive decision don't receive state support beyond just fourteen days and in case of negative decision only 48 hours which is simply inadequate and inhuman (Kate, 2018). The decision to leave to remain in the country is not an automatic process and the EU victims are unlikely to get a positive decision leaving them in a destitute situation sometimes or engage in act like prostitution or just reestablish contacts with the traffickers to support themselves. Another important aspect is overseas domestic worker's visa category which makes it harder for non-EU domestic worker to leave the same employer who has hired him or her in first place. Such regulations limit the rights of domestic workers and create an exploitative environment for potential exploitative employers. So, the immigration laws conflict with the goal of MSA regarding its victims especially when questions like "right to work" or "right to stay" in the country comes along with the matter of confirmed victimhood. Test of habitual residency is another set of regulations which a person must present to qualify for welfare benefits. Conditions are such which are unrealistic to be met by victims for example producing the latest salary slips. (Mantouvalou, 2015) Rights to appeal against the decision of NRM cannot be lodged and there is no availability of legal aid to the potential victim right from the beginning as well. An important point regarding the identification and protection of the potential victims are the "guidance" issued by the secretary of state. It has been found that such guidance is often nonspecific and brief thus creates confusion for both victims and authorities regarding which arrangements are suitable for whom. In case of both the identification and support mechanism for the victim secretary of state enjoys discretion about regulations which is again may be affected by own political agenda. Finally, for a victim in the modern slavery act the exemption threshold not to be labelled as a criminal for unlawful activities during victimhood has been raised since the "burden of proof" for the adult victims requires fulfilling certain criteria. That is why it is not always possible for an adult victim to rely on section 45 as a defense for committed serious common law crimes such as prostitution related offences, immigration offences, drug related offences. It is indeed ironical when most of the times adult victims commit above mentioned crimes during the time of victimhood. (Jason, 2016)

DISCUSSION & CONCLUSION

The typical Marxist crime conception divides the society into two parts based upon unequal distribution of resources and interests. Such resources inevitably create power in the society among different social groups. Likewise, in the context of Modern slavery there exist class struggles where a powerful and resourceful class namely exploitative employers/traffickers use every means to exploit the less powerful class namely employees/victims. Such employers see employees as a product or an object who are ok to extremely manipulate and exploit for the purpose of profit maximization. The word slavery implies “ownership” and servitude implies “obligations” in relation to any employment or service.

“Demoralization” in other words a victim blaming approach is a Marxist term used to refer to those exploited workers who commit crimes being desperate, frustrated or finding no other reasonable alternatives. Victim blaming approaches since the beginning of the act in 2015 is well and truly unfounded. According to the Government a victim focused system as recommended by many including the work and pension department will undermine the country’s immigration system by posing many as victims of modern slavery.

The invisibility part is one of the modern elements in modern slavery. Unlike earlier days there are no slave markets or ports where people are sold or traded but there are cheap nail bars, hand car washes, and other services right at the back yard where people are experiencing the horror day in and day out without proper rest, safety, protection, salary. The modern Slavery Act 2015 is a commendable effort by the UK government to criminalize further who commits such heinous crimes violating the human rights by sending a strong message to the perpetrators. However merely punishing the criminals do not serve the victims since the effect of Modern slavery on victims are huge in terms of mental and physical health. A victim centric approach is a crying need of the existing act where the victims would feel more empowered to come forward to the authorities and do not fall through the gap of the system. It is important to point out that the subject areas like punishments and enforcements are more pronounced in the act whereas the victim-based critical provisions like identification and supports are dependent upon the secretary of state who is necessarily a political person. Only 45 days “reflection and recovery” period of support is not enough for the victims of such horrible crimes. It is unrealistic as well that during such a short of period victims will or are able to cooperate with the competent authorities for justice while their basic needs like food, shelter, security to stay in the county are uncertain. A positive conclusive decision of being a confirmed victim at the end of the NRM process enables the victims only 14 days to stay in a safe home with support which should be a matter of review. The hospitality sector is one of the most vulnerable sectors due to increased competition of lowering the labor cost and crucially the brexit may remove lot of worker’s rights & protection related EU directives.

“Pull factor” is an important term often used against victims by the policy makers. It suggests any generous policy regarding modern slavery victims would attract traffickers to exploit the victims even more or the number of fake victims would increase who would abuse the UK welfare system in the shortest possible opportunity. To what extent policy makers are right it is still a subject of debate since no person can choose to become a victim by its nature through giving away control or decision-making ability to someone else. Despite many reforms so far, the government for the same cause of so called “pull factor” has not started implementing recommendations of different organizations and departments to

allow the confirmed victims at least 12 months leave to remain in the country for proper rehabilitation purposes. It has been found that the positive decision of a confirmed victim of modern slavery is merely a piece of paper since it does not carry significant weight in terms of wellbeing of the victims in later period. Low convictions rate of the criminals is the direct of impact of sudden removal of supports from the victims as many such victims become homeless, destitute and get contacted by the traffickers again. The child victims require greater protection and support in England and Wales which is yet to be implemented. Finally, the modern slavery act 2015 is an outstanding achievement by the UK government however it does not lead the victims to recovery. The transition from victims to survivors is a unique process for everyone therefore the following recommendations should be taken into considerations- 12 months extension of leave to remain in the country for the confirmed victims based on conclusive grounds. It will help both the victims to recover and get on with their life through participation in employment, education and the justice system leading to higher convictions. The habitual residency test should be removed since the victims in enslaved situation cannot legally work or live and open bank account, safe homes, welfare benefits, personal plan should be in place for the confirmed victims to prevent trafficking, destitution like situation. In other words, a positive conclusive decision regarding victimhood should bring some meaningful change in victims' life, allowing potential victims to have legal advice prior to giving consent to NRM and allowing to appeal against the NRM decision should be considered. Apart from these all front-line employees and employees of the department of work and pension to whom a victim is very likely to approach first after the NRM process should be provided adequate trainings, and the decision not to keep record of the re trafficked victims should be reassessed. Overall, the policy makers need to review the victim support policies not only from the economic perspective but also from moral viewpoint too.

It is only the genuine willingness of the government which can help to create a victim focused equal and just system unfortunately which the country still lacks at present. Social Conflict theory assumes all crimes have a political root where people in power serve only the interests of the powerful few and disregard the rights of the many. As a result, crimes related to the modern slavery in society affects the most vulnerable due to less protection and support availabilities establishing it as a social reality of crime.

In conclusion, there is a lack of victim centric approaches particularly in England and Wales. As a result, the victims feel less confident in the system and authorities. In worst scenario the victims fell back in the hands of the exploiters or traffickers. This is one of the reasons of less convictions rate as well. The needs of the victims should be given priority to make sure victim's wellbeing. The policies regarding victims of modern slavery are complex. There are contradictions between MSA objective and immigration law. Stricter immigration law has an impact on the vulnerable groups living within the country making them more prone to abuse. Modern slavery cannot be controlled alone by criminal legislations without determined political will, and engagement of communities. The convictions rate is significantly low compared to the confirmed victims. The soft approach towards business supply chain should be reviewed too. Overall a stronger political goodwill is a crying need.

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APPENDIX

Appendix 1

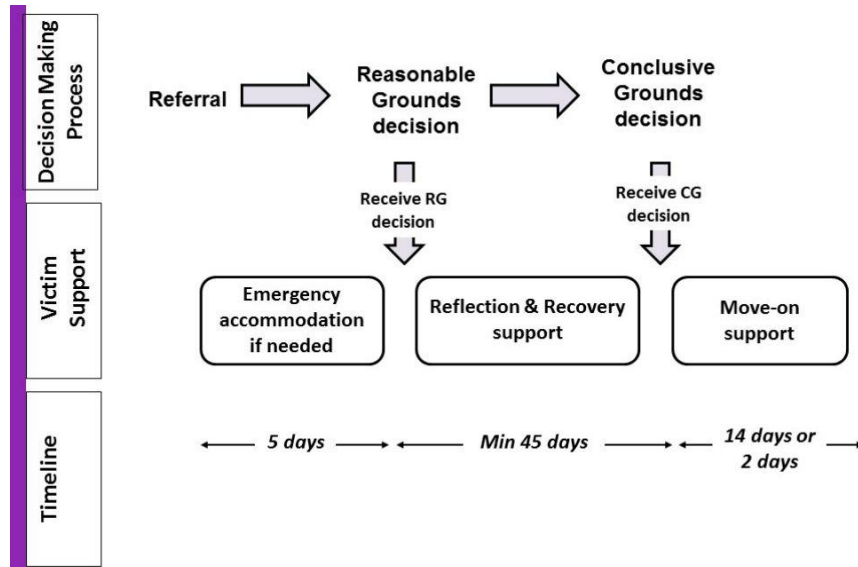


Figure 1: National referral mechanism process

Source: UK Home office