

Responses to child victims of modern slavery in the United Kingdom: a children's rights perspective

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'A' Abstract

Freedom from slavery is one of the few absolute human rights that exist. While it has been abolished globally,⁶ situations of slavery continue to exist today in the form of 'modern slavery'. This paper focuses on child victims of modern slavery in the UK and considers whether responses to these victims align with the requirements of the Convention on the Rights of the Child (CRC). The article employs the 3 P Framework used to categorise the CRC – provision, protection and participation – to discuss the rights most relevant for child victims of modern slavery and suggests that there is a particular failure to recognise the importance of children's participatory

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⁶ To provide a summary of some of the key treaties and conventions: Denmark was the first sovereign state to legally abolish their slave trade in 1803. Four years later in 1807, Britain and the United States enacted similar legislation with the Act for the Abolition of the Slave Trade and the Act Prohibiting Importation of Slaves respectively. In the UK, slavery was legally abolished throughout the British Empire under the Slavery Abolition Act of 1833. The 13th Amendment to the United States Constitution was enacted in 1865, making slavery illegal in the US. The focus on slavery was later followed by the 1904 International Agreement for the Suppression of the White Slave Traffic, renegotiated into the 1910 International Convention for the Suppression of the White Slave Traffic and which later became the International Convention for the Suppression of the Traffic in Women and Children. In 1926, The League of Nations' Convention to Suppress the Slave Trade and Slavery was introduced, amended in 1956 with the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery.

rights. The article concludes by offering recommendations for policy, encouraging the participation of children in developing effective anti-slavery policies.

Keywords: Child Participation; UK Modern Slavery Act; Children's Rights.

'A' Introduction

There exists a wide range of treaties and human rights conventions that prohibit slavery. Slavery has been condemned globally, on paper at least, and the human right to be 'free from slavery' is considered a fundamental human right, deserving of heightened protection and attention.⁷ The term 'slavery' often conjures historical connotations of shackles and plantations and, for the most part, adults. However, rather than focusing on historical slavery, this paper turns to understandings of modern slavery and provides an analysis of how children, in particular, are identified, represented and supported, not just as victims of this crime but also as human rights-holders across the United Kingdom. After doing so, attention turns to examining modern slavery by utilising the United Nations Convention on the Rights of the Child (CRC) as a lens to reflect on existing law, policy and practice. The CRC is the first international treaty to identify a bespoke set of human rights for children, including a range of rights that together not only afford children protection from all forms of modern slavery but also affirm the child's right to express their views and to have them taken seriously in decisions affecting them. In spite of this, there has been limited attention in academic research and discussion to the specific children's rights imperatives and dimensions that arise from the impact of modern slavery

⁷ D S Weissbrodt 'Abolishing slavery and its contemporary forms'. Anti-Slavery International and United Nations Office of the United Nations High Commissioner for Human Rights, UN 2002 Available online www.ohchr.org/documents/publications/slaveryen.pdf (Accessed 10 June 2019)

policies and practices. By exploring this further, this article attempts to advance academic discussion in this area.

This article begins by outlining why a rights-based approach is essential in meeting the needs of child victims⁸ of modern slavery. We go on to describe the existing policy context and processes in the UK through which victims of modern slavery are identified and their cases recorded and managed, highlighting the differential treatment of children in these processes. We then employ the widely used categorisation of children's rights, the 3Ps of provision, protection and participation, as a framework to discuss the rights which are most pertinent to child victims of modern slavery. We conclude by arguing that existing policy over-emphasises the protection of children at the expense of their rights to participation, while simultaneously, existing practice fails to protect all children. Neglecting to consider children as agentic rights-holders may undermine the existing legal and policy responses to child slavery in the UK and we conclude with recommendations that focus on the active participation of the child victim of modern slavery.

'A' A Children's Rights Framework

The CRC⁹ was the first global agreement that acknowledged children as rights holders. It has also been described by the OHCHR (Office of the United Nations High Commissioner for Human Rights) as 'one of the most effective means of combating slavery-like practices.'¹⁰

⁸ 'While we recognise that the language surrounding the term 'victim' is contested, we use this term in keeping with the language of the Modern Slavery Act, e.g. Part 5: Protection of Victims

⁹ UN 'The Convention on the Rights of the Child, 1989'.

¹⁰ UN 'OHCHR Fact Sheet No.14, Contemporary Forms of Slavery (1991) at p 4. Available online www.ohchr.org/Documents/Publications/FactSheet14en.pdf (Accessed 20 October 2018).

Protection is embedded throughout the CRC and specifically referred to in the preamble which recognises that ‘by reason of physical and mental immaturity, [children] need special safeguards and care, including appropriate legal protection, before as well as after birth.’¹¹ However, to ensure children have effective and respectful protection, Article 12 (and other related articles, including 13–17) of the CRC, requires that children under the age of 18 years have the right to have their views taken into account in all decisions and practices that impact on them.¹² This recognises the distinct ‘agency’ of children.¹³ However, different interpretations of children’s rights can occur, and not all are in the best interests of children. According to Gerison Lansdown¹⁴ opinions such as, ‘Children lack the competence or experience to participate’ are often used to deny child participation. Therefore, it is important to be clear on what a rights-based approach would look like.

Lansdown and Thomas Hammarberg both approach the CRC from the basis of splitting the document up into three types of rights. These three types of rights have become known as the ‘3 Ps’, emerging in 1990, after the CRC was signed in 1989. Whether the 3Ps of provision, protection and participation were a pedagogical tool as Hammarberg¹⁵ argued, or an umbrella group, which Lansdown¹⁶ suggested, the 3Ps

¹¹ UN ‘The Convention on the Rights of the Child, 1989’, Preamble.

¹² UN ‘The Convention on the Rights of the Child, 1989’ Art 12-17.

¹³ D Reynaert, D, M Bouverne-de-Bie, and S Vandeveldel ‘A review of children’s rights literature since the adoption of the United Nations Convention on the Rights of the Child’ (2009) 16 *Childhood* 518.

¹⁴ G Lansdown ‘Promoting Children’s Participation in Democratic Decision-Making’ UNICEF Innocenti Insights no6, 2001, at p 8. Available online www.unicef-irc.org/publications/290-promoting-childrens-participation-in-democratic-decision-making.html (Accessed 30 May 2019).

¹⁵ T Hammarberg ‘UN Convention on the Rights of the Child – and How to Make It Work’ (1990) 12 *Human Rights Quarterly* 97.

¹⁶ G Lansdown ‘Promoting Children’s Participation in Democratic Decision-Making’ UNICEF Innocenti Insights no6, 2001. Available online www.unicef-irc.org/publications/290-promoting-childrens-participation-in-democratic-decision-making.html (Accessed 30 May 2019).

have become a useful yet contested starting point for discussions around the CRC.¹⁷ For this purpose, they are important to outline here to underpin our discussion of modern slavery from a children's rights perspective.

While the CRC 3Ps of provision, protection and participation are universal elements of the human rights of children, the UK Government's Modern Slavery Strategy differs from this approach. Instead of the 3Ps, the Modern Slavery Strategy encourages the implementation of 4Ps (pursue, prevent, protect and prepare) in tackling modern slavery.¹⁸ In trying to understand how modern slavery responses to child victims in the UK reflect a child rights approach, it is important to highlight the differences between the 3Ps of the CRC and the 4Ps of the Modern Slavery Strategy. The 4Ps relating to modern slavery responses builds on the framework that was implemented for serious and organised crime and counter terrorism. . Pursue relates to the disruption and prosecution of perpetrators of modern slavery; prevent focuses on averting people from becoming involved in modern slavery; protect concentrates on improving safeguards and increasing awareness and resilience, while prepare looks at reducing the harm caused by the crime.¹⁹

The 4 Ps advocated in the response to modern slavery in the UK shows a clear differentiation with the processes of dealing with child rights. The only common 'P' between both approaches is the P of protect, which implies from the outset that

¹⁷ A Quennerstedt 'Children, But Not Really Humans? Critical Reflections on the Hampering Effect of the "3 p's"' (2010) 18 International Journal of Children's Rights 619. K Hanson and L Lundy 'Does Exactly What it Says on the Tin? A Critical Analysis and Alternative Conceptualisation of the So-called "General Principles" of the Convention on the Rights of the Child' (2017) 25 The International Journal of Children's Rights, 285.

¹⁸ HM Government 'Modern Slavery Strategy' (2014). Available online https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf (Accessed 16 January 2020)

¹⁹ HM Government 'Modern Slavery Strategy' (2014). Available online https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf (Accessed 16 January 2020)

participation has not been given great consideration in the promoted methods of responding to modern slavery in the UK.

‘A’ Policy and Processes in the UK

‘B’ Defining Modern Slavery

The notion of modern slavery continues to be a contested term with no universally accepted definition.²⁰ The UK Modern Slavery Act of 2015 introduced the use of ‘modern slavery’ as an umbrella term which incorporates human trafficking, slavery servitude and forced and compulsory labour. However, the use of the term ‘modern slavery’ has not been introduced without contestation. Dottridge raises concerns that the connotations of historical slavery imply that those countries with large proportions of ‘modern slavery’ are uncivilised. Naming and shaming those countries could lead to a lack of government cooperation rather than encouraging change. Further, the term risks trivialising the experiences of those who were enslaved in the 18th and 19th centuries.²¹ Other academics criticise the use of the term ‘modern slavery’ to refer to forms of extreme exploitation occurring since abolition. These criticisms are based on the claim that there is no clear segregation between ‘modern slavery’ and other forms of exploitation, including labour, marriage and debt.²²

²⁰ O Patterson and X Zhuo ‘Modern Trafficking, Slavery, and Other Forms of Servitude’ (2018) 44 Annual Review of Sociology 407.

²¹ M Dottridge ‘Eight Reasons Why We Shouldn’t Use the Term ‘Modern Slavery’’ (2017) Beyond Slavery and Trafficking, available online <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/eight-reasons-why-we-shouldn-t-use-term-modern-slavery/> (accessed 19 September 2019)

²² J O’Connell Davidson. ‘Modern Slavery: The Margins of Freedom’ (Palgrave Macmillan, 2015); J Quirk. ‘The rhetoric and reality of ‘ending slavery in our lifetime’’ (2015) Beyond Slavery and Trafficking, available online <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/rhetoric-and-reality-of-ending-slavery-in-our-lifetime/> (accessed 19 September 2019)

There are also those, such as Joel Quirk, who argue that the lack of universally accepted definition is due to the limitations of the legal abolition of slavery, coupled with ‘the continuing consequences of enduring ideologies of human difference and social discrimination.’²³

Kevin Bales et al. define slavery as ‘a relationship in which one person is controlled by another through violence, the threat of violence, or psychological coercion, has lost free will and free movement, is exploited economically, and is paid nothing beyond subsistence.’²⁴ Similarly, Anti-slavery International states that ‘slavery is less about people literally owning other people – although that still exists – but more about being exploited and completely controlled by someone else, without being able to leave.’²⁵

According to Quirk, ‘Slavery is traditionally defined using a combination of individual ownership, property rights and extreme exploitation.’²⁶ These characterisations were included in the first international agreement on slavery, the 1926 League of Nations’ Slavery Convention, which provided the definition that:

‘(1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or

²³ J Quirk ‘The Anti-Slavery Project’ (University of Pennsylvania Press, 2011, at p250).

²⁴ K Bales, Z Trodd and A Kent Williamson Modern Slavery. ‘The secret world of 27 million people’ (One World Publications, 2009, at p 31).

²⁵ Anti-Slavery International ‘What is Modern Slavery’ (2019) Available online: www.antislavery.org/slavery-today/modern-slavery/ (Accessed 3 March 2019).

²⁶ J Quirk ‘The Anti-Slavery Project’ (University of Pennsylvania Press, 2011, at p139).

exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.’²⁷

This definition was amended with The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, which expanded on the 1926 definition to incorporate servile statuses to include debt bondage, serfdom, servile marriage and the transfer of a person under 18 years old by his guardian(s) to another person (regardless of reward) with the intention of exploiting him or his labour.²⁸

The Modern Slavery Act of 2015 is the most recent piece of UK legislation relating to slavery. Continuing to use the definitions provided by the Slavery Convention and the Supplementary Convention as its basis, it states that for situations of slavery, servitude and forced and compulsory labour:

‘(1) A person commits an offence if—

(a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or

(b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour’.²⁹

And for cases of human trafficking:

²⁷ UN General Assembly ‘Slavery Convention’ (1926) at p 1. Available online www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx (Accessed 17 May 2018).

²⁸ UN ‘Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions Similar to Slavery’ (1956) Available online www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx (Accessed 17 May 2018).

²⁹ Home Office Modern Slavery Act 2015, S1.

‘(1) A person commits an offence if the person arranges or facilitates the travel of another person (“V”) with a view to V being exploited.

(2) It is irrelevant whether V consents to the travel (whether V is an adult or a child).

(3) A person may in particular arrange or facilitate V’s travel by recruiting V, transporting or transferring V³⁰, harbouring or receiving V, or transferring or exchanging control over V.

(4) A person arranges or facilitates V’s travel with a view to V being exploited only if—

(a) the person intends to exploit V (in any part of the world) during or after the travel, or

(b) the person knows or ought to know that another person is likely to exploit V (in any part of the world) during or after the travel.’³¹

The definitions provided by the Modern Slavery Act, that practitioners are obliged to comply with, will be used to inform this article and the use of the term ‘modern slavery’ incorporates all aspects defined within it.

While the concept of ‘child slaves’ is often referred to as ‘slavery and practices similar to slavery,’³² the use of the term ‘child slave’, is often contested. Just as terms such as ‘child labour’ or ‘child prostitute’ are considered inappropriate, the term ‘child slavery’ is criticised due to the wide range of definitions of such terms.³³

According to Beate Andrees, ILO, Special Action Programme to combat Forced

³⁰ V refers to victim.

³¹ Home Office Modern Slavery Act 2015, S2.

³² UNHCR ‘Slavery and slavery-like practices: exploitation of child labour’ (1986) Available online: www.refworld.org/docid/3b00f05c24.html (Accessed 13 March 2019).

³³ H Van de Glind, and J Kooijmans ‘Modern-Day Child Slavery’ (2008) 22 Children & Society 150.

Labour, the range of different legal definitions of such terms as ‘child slaves’ creates confusion as, ‘not all children who are exposed to hazardous work are “slaves”, and not all workers who don’t receive a fair wage are forced.’³⁴ This is what Janie Chung calls ‘exploitation creep’, the practice of ‘expanding previously narrow categories ... in a strategic bid to subject a broad range of practices to a greater amount of public opprobrium’³⁵. Therefore, clear definitions are required to measure the impact of such policies such as the Modern Slavery Act in the UK and globally.

It is interesting to note the language presented within the Modern Slavery Act. For example, ‘the person holds another person in slavery.’³⁶ The ‘person’ is not defined as a slave but by being held in slavery and the ‘person’ is referred to as ‘a victim’ regardless of whether the ‘person’ is an adult or a child.³⁷ Therefore, in this paper we choose to use the term ‘child victim of slavery’ rather than ‘child slave’, aligning to the language of the Modern Slavery Act and in doing so, recognising that the children who are enslaved should not be described by the practices that undermine their human rights.

‘B’ Addressing Modern Slavery in the UK

The UK Modern Slavery Act 2015 is intended to give law enforcement the tools to fight modern slavery, ensure suitably severe punishments and enhance the support available for victims. In England and Wales, the Modern Slavery Act 2015 consolidated the existing slavery and trafficking offences into two main offences.³⁸

³⁴ ILO ‘Forced labour. Why definitions matter’ Comment by Beate Andrees, 03 February 2014. Available online www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_234854/lang--en/index.htm (Accessed 12 June 2019).

³⁵ J A Chung ‘Exploitation Creep and the Unmaking of Human Trafficking Law’ (2014) 108 *The American Journal of International Law* 609 at p611.

³⁶ Home Office Modern Slavery Act 2015, S1.

³⁷ Ibid.

³⁸ Home Office Modern Slavery Act 2015.

The first - slavery, servitude and forced or compulsory labour - 'should be construed in accordance with Article 4 of the Human Rights Convention.'³⁹ However, the Human Rights Convention fails to provide much needed clarity, simply stating that, '1. No one shall be held in slavery or servitude. 2. No one shall be required to perform forced or compulsory labour.'⁴⁰

The second main offence - Human Trafficking - is defined as 'arranging or facilitating the travel of another person with a view to exploitation', with travel including within a country, as well as across international borders.⁴¹

In Northern Ireland, The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 consolidated existing offences into two offences.⁴² Human Trafficking is defined as 'arranging or facilitating the travel of another person with a view to that person being exploited', with arranging or facilitating travel including recruiting, transporting, transferring, harbouring, receiving, or exchanging control over a person.'⁴³ Within the legislation, slavery, servitude and forced or compulsory labour places a statutory duty on the courts to interpret this offence in line with Article 4 of the ECHR, which outlines the prohibition of slavery and forced labour.

The Human Trafficking and Exploitation Act (Scotland) 2015⁴⁴ consolidated existing offences into two new offences. Human Trafficking has two parts to the offence: the relevant action and an intention to exploit or knowledge of likely exploitation. The

³⁹ Home Office Modern Slavery Act 2015, S1.

⁴⁰ Council of Europe 'European convention on human rights' Council of Europe, 2010, p 7. Available online www.echr.coe.int/Documents/Convention_ENG.pdf (Accessed 13 June 2018).

⁴¹ Home Office Modern Slavery Act 2015, S2.

⁴² Department of Justice Northern Ireland 'The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland)' 2015.

⁴³ Ibid. Section 2.

⁴⁴ Home Office The Human Trafficking and Exploitation Act (Scotland) 2015.

relevant action includes recruiting, transporting, transferring, harbouring, receiving or exchanging control over a person (or facilitating these actions). In relation to slavery, servitude and forced and compulsory labour, the Act states this offence is to be construed in accordance with Article 4 of ECHR,⁴⁵ which prohibits slavery and forced labour. There have been different strategies and approaches to tackling modern slavery and human trafficking that have been put in place in England, Wales, Scotland and Northern Ireland.

In 2016, the then Prime Minister, Theresa May claimed that tackling modern slavery and human trafficking was a priority of her government.⁴⁶ She suggested that this was evident through the introduction of the Modern Slavery Act, the implementation of an Independent Anti-Slavery Commissioner, the development of a Modern Slavery Police Transformation Unit and the establishment of a Modern Slavery Innovation Fund.⁴⁷ The latter was designed to build the evidence base around new approaches to tackling modern slavery around the world.⁴⁸ This fund was made available from 2016-2017 and runs to 2020-2021.⁴⁹ At the launch of the fund, the then Home Secretary Amber Rudd stated that,

‘Modern slavery is a global crime which demands an international response... We are determined to work with other governments around the world to eradicate slavery and send a message that it will not be tolerated. As part of our ongoing commitment

⁴⁵ Council of Europe ‘European convention on human rights’ Council of Europe, 2010, p 7. Available online www.echr.coe.int/Documents/Convention_ENG.pdf (Accessed 13 June 2018).

⁴⁶ RH T May ‘My government will lead the way in defeating modern slavery’. The Telegraph, 4 July 2016 [Online]. Available online www.telegraph.co.uk/news/2016/07/30/we-will-lead-the-way-in-defeating-modern-slavery (Accessed 10 June 2019).

⁴⁷ Ibid.

⁴⁸ Home Office and Victoria Atkins MP ‘Home Office awards millions to help tackle worldwide slavery’ News Story 26 April 2019. Available Online www.gov.uk/government/news/home-office-awards-millions-to-help-tackle-worldwide-slavery (Accessed 10 June 2019).

⁴⁹ Ibid.

to tackle the scourge of modern slavery these funds - totalling £14 million - will help develop innovative approaches to support victims and bring perpetrators to justice'.⁵⁰

In October 2018, the UK Government announced a £5 million Modern Slavery Innovation Fund dedicated specifically to assist 'child victims of modern slavery and fund innovative ways to improve' responses to this crime.⁵¹ The Prime Minister stated that she was continuing to prioritise this agenda and was '[making] tackling modern slavery a personal mission'.⁵² Further support to tackle modern slavery came from the Minister for Crime, Safeguarding and Vulnerability, Victoria Atkins who in 2018, announced to Parliament that the latest Independent Child Trafficking Advocates scheme, run in partnership with Barnardo's, would expand and officially open also in the West Midlands.⁵³ Recent Government reports indicate that over 200 children who 'are potential victims of modern slavery' have benefitted from the ICTA scheme.⁵⁴

'A' Identification of Child Victims of Modern Slavery in the UK

Christine Cooper et al. note that the hidden nature of the crime of modern slavery results in critical challenges when attempting to 'measure accurately its scale'.⁵⁵

⁵⁰ Home Office 'Home Secretary pledges £11million for groups fighting modern slavery'. Press Release 27 October 2016 Available online www.gov.uk/government/news/home-secretary-pledges-11-million-for-groups-fighting-modern-slavery (Accessed 10 June 2019).

⁵¹ Home Office 'New action to tackle modern slavery and support victims'. News Story 10 October 2018. Available online www.gov.uk/government/news/new-action-to-tackle-modern-slavery-and-support-victims (Accessed 19 May 2019).

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ C Cooper, O Hesketh, N Ellis and A Fair 'A Typology of Modern Slavery Offences in the UK' Research Report 93 Home Office Analysis and Insight, 2017 p 3. Available online www.antislaverycommissioner.co.uk/media/1190/a-typology-of-modern-slavery-offences.pdf (Accessed 14 May 2018).

Brayley and Cockbain⁵⁶ argue that children within the UK who are victims of trafficking are less likely to be labelled as ‘trafficked’ than a child victim who is brought in to the UK. Because of this hidden nature, it is impossible to precisely define the prevalence of modern slavery, although estimates have been attempted. The Global Slavery Index by rights group Walk Free Foundation estimates that in the UK there are at least 136,000 ‘modern slaves’,⁵⁷ which is a figure ten times higher than a government estimate of ‘10,000 – 13,000’ recorded in the UK’s Modern Slavery Strategy.⁵⁸ This huge disparity in estimates emphasises the difficulty of obtaining any form of accurate understanding of the number of people experiencing modern slavery. The Global Slavery Index is concerned with trying to measure the extent of modern slavery across the world, with the view that the scale of a problem needs to be identified in order to prove that it exists and to be able to measure the effectiveness of responses.⁵⁹ However, there is no international legal definition of modern slavery, and the methodology of the GSI has been criticised for being highly flawed and repeatedly amending the forms of exploitation that it considers modern slavery.⁶⁰ It covers a wide remit of types of exploitation, including forced marriage,

⁵⁶ H Brayley and E Cockburn ‘British Children can be Trafficked Too: Towards an Inclusive Definition of Internal Child Sex Trafficking’ (2014) Available online <https://doi.org/10.1002/car.2307> (Accessed 25 October 2019)

⁵⁷ Walk Free Foundation Country Data, UK (2018) Available online www.globalslaveryindex.org/2018/data/country-data/united-kingdom/ (Accessed 19 June 2018).

⁵⁸ Home Office ‘Modern Slavery Strategy’ (2014) page 9. Available online assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/383764/Modern_Slavery_Strategy_FINAL_DEC2015.pdf (Accessed 20 May 2019). Summary of the methodology available here: K Bales, O Hesketh & B Silverman, ‘Modern slavery in the UK: How many victims?’. (2015) *Significance*, vol. 12, no. 3, pp. 16-21. Available online <https://rss.onlinelibrary.wiley.com/doi/full/10.1111/j.1740-9713.2015.00824.x> (Accessed 14 October 2019)

⁵⁹ A Gallagher ‘What’s Wrong with the Global Slavery Index?’ 8 *Anti-Trafficking Review* (2017) 90. Available online <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/228/216> (Accessed 14 October 2019)

⁶⁰ For a summary of the key flaws of the methodology of the GSI: A Gallagher ‘The Global Slavery Index is Based on Flawed Data - Why Does No One Say So?’ *The Guardian* (2014) Available online <https://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher> (Accessed 14 October 2019); Mugge, D ‘40.3 Million Slaves? Four Reasons to Question the New Global Estimates of Modern Slavery. *Beyond Trafficking and Slavery* (2017) Available online

which does not automatically equate to modern slavery.⁶¹ The wide scope of forms of exploitation included in the remit of the Global Slavery Index's measurements may therefore go some way towards explaining the discrepancy between the two figures.

The identification of victims of modern slavery in the UK is carried out primarily through the National Referral Mechanism (NRM)⁶². The terminology of 'potential' victim is used throughout the NRM reporting process to signify victims who have been identified, but whose status has not yet been confirmed.⁶³ It is key to note here that for an adult to be accepted into the NRM, they must consent, however consent is not required for a child,⁶⁴ and 'all children identified as potential victims of modern slavery should be referred to the NRM.'⁶⁵ As a result of this difference between adults and children, there are separate forms for adult and child referrals.

While there have been relatively recent additions to methods of reporting modern slavery, including the duty to notify (which requires public authorities to report situations of slavery in which the potential adult victim does not consent to entering the NRM), there are flaws with such reporting methods, including the risk of people being counted multiple times if reported by multiple agencies. As such, although the NRM does not provide complete data on all people identified as potential victims of

<https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/403-million-slaves-four-reasons-to-question-new-global-estimates-of-modern-slavery/> (Accessed 14 October 2019)

⁶¹ See A Kidd 'The Dynamics of Contemporary Slavery and Conflict: Asylum, Agency and Accountability' (2018); N Jain 'Forced marriage as a crime against humanity: problems of definition and prosecution.' (2009) *Journal of International Criminal Justice*, 6(5), 1013-1032; J Gong-Gershowitz. 'Forced marriage: a "new" crime against humanity?' (2009) *Northwestern Journal of International Human Rights*, 8(1), 52-76.

⁶² Home Office 'National referral mechanism: guidance for child first responders: version 2' Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁶³ Ibid.

⁶⁴ Home Office 'Modern slavery victims: referral and assessment forms. (Adult; Child) (England and Wales; Scotland and Northern Ireland)' (2019) Available online www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms (Accessed 17 June 2019).

⁶⁵ Home Office 'National referral mechanism: guidance for child first responders: version 2' Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

modern slavery and human trafficking (nor, of course, on those who have not been identified), it does include all children who have been recognised as such, and therefore it is the NRM statistics that this article draws upon.

It is key to note that the NRM refers not to children, but to minors, where a minor is anyone under 18 years old at the time of first claimed exploitation,⁶⁶ a definition that aligns with the definition of a child in Article 1 of the CRC.⁶⁷

When an NRM form is completed for a child victim, a referral should also be made to wider child safeguarding processes for support;⁶⁸ the child's support will then come from child safeguarding as opposed to the NRM which provides the support for adult victims. It is highlighted that all children, regardless of their immigration status, are legally entitled to safeguarding and protection.⁶⁹

While the NRM includes referrals from all four countries of the UK, the referral forms differ between England and Wales, and Scotland and Northern Ireland. The NRM adult guidance states that from July 2015, the support available to potential victims began to vary by country. Potential victims of slavery, servitude, forced or compulsory labour in England and Wales may have access to the support that was previously only available to potential victims of human trafficking. However, in Scotland this support was not extended to victims of modern slavery until March 2016, and in Northern Ireland, not until April 2018.⁷⁰ With the separate NRM referral

⁶⁶ NCA 'National Referral Mechanism Statistics – End of Year Summary 2018'. (2019) at p11. Available online nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file (Accessed 02 May 2019).

⁶⁷ UN 'The Convention on the Rights of the Child, 1989'.

⁶⁸ Home Office 'Modern slavery victims: referral and assessment forms. (Adult; Child) (England and Wales; Scotland and Northern Ireland)' (2019) Available online www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms (Accessed 17 June 2019).

⁶⁹ Ibid.

⁷⁰ Home Office 'National referral mechanism guidance: adult (England and Wales)' (2019) Available online <https://www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms/guid>

forms for adults and children in addition to these separate forms for England and Wales, and for Scotland and Northern Ireland, there is a total of four different reporting forms.

The lack of required consent from a child is an omission which has clear implications from a children's rights perspective, given that children are entitled to have their views given due weight in all matters affecting them in line with their age and maturity as stated in Article 12 of the CRC.⁷¹ According to Christine Beddoe and Vicky Brotherton,⁷² when children are referred to the NRM, '[t]he issue of a child's consent is ... frequently misunderstood and sometimes used as a shortcut to doing things without the child's knowledge'.

'B' Data on Victims of Modern Slavery in the UK

Using data from the NRM, collected by the National Crime Agency (NCA), it is possible to gain a broad overview of cases of modern slavery and human trafficking involving children in the UK. However, the data has limited potential because, although it offers separate figures for adult and 'minor' referrals, there is no breakdown of age groups, meaning it is not possible to identify whether different ages suffer different forms of exploitation, or are more likely to be targeted. The data from 2018 identifies that 6,993 people were identified as potential victims in the UK in that year; of these, 3137 (44.86%) were children.⁷³ This figure represents a 48%

[ance-on-the-national-referral-mechanism-for-potential-adult-victims-of-modern-slavery-england-and-wales](#) (Accessed 27 November 2019).

⁷¹ UN 'The Convention on the Rights of the Child, 1989'.

⁷² C Beddoe and V Brotherton 'Class Acts? Examining modern slavery legislation across the UK' (2016) at p 40. Available online www.kalayaan.org.uk/wpcontent/uploads/2014/09/atmg_class_acts_report_web_final.pdf (Accessed 30 May 2018).

⁷³ NCA 'National Referral Mechanism Statistics – End of Year Summary 2018'. (2019) at p11. Available online nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file (Accessed 02 May 2019). It must be noted that these figures represent the number of

increase in child referrals from 2017⁷⁴. Such an increase may be partly a result of an increase in County Lines⁷⁵ referrals being included within labour exploitation definitions, as well as unaccompanied asylum-seeking children being referred to the NRM. It should be noted that the NCA does not clarify whether all unaccompanied asylum-seeking children are referred into the NRM, or just those who have reported exploitation.

Where the exploitation was known amongst child victims (there were 412 cases reported where the exploitation was unknown, leaving 2725 cases where the exploitation was known), the majority of children identified as potential victims in the UK were victims of labour exploitation (72.92%; 90.69% of whom were male).⁷⁶ N.B. in the NRM, criminal exploitation is recorded as a subcategory of labour exploitation. This was followed by sexual exploitation (23.41%; 16.46% of whom were male), domestic servitude (3.52%; 55.21% of whom were male) and organ harvesting (0.15%, 100% of whom were male).⁷⁷ Of the 3137 children identified as potential victims, the most prevalent nationality was UK, with 1421 children identified, followed by 320 from Vietnam and 232 from Sudan.⁷⁸

To break these child statistics into referrals from each of the four jurisdictions in the UK, 2942 were referred in England, 125 in Wales, 53 in Scotland and 17 in Northern

people *referred* into the NRM as potential victims, not the number of people who are successfully granted a reasonable grounds decision (suspects but cannot prove this person is a victim), or conclusive grounds decision (on the balance of probabilities, there are sufficient grounds to decide that the individual being considered is a victim).

⁷⁴ Ibid.

⁷⁵ County Lines refers to the criminal exploitation of children who are recruited to run and sell drugs

⁷⁶ NCA 'National Referral Mechanism Statistics – End of Year Summary 2018'. (2019) at p11. Available online nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file (Accessed 02 May 2019).

⁷⁷ NCA 'National Referral Mechanism Statistics – End of Year Summary 2018'. (2019) at p11. Available online nationalcrimeagency.gov.uk/who-we-are/publications/282-national-referral-mechanism-statistics-end-of-year-summary-2018/file (Accessed 02 May 2019).

⁷⁸ Ibid.

Ireland.⁷⁹ The discrepancy between the numbers reported could be explained by the difference in terminology between that used by England and Wales, and that used by Scotland and Northern Ireland, as discussed above.⁸⁰ These are not small numbers, but indicate a widespread problem spanning all four parts of the UK. According to the Home Office,⁸¹ 'Modern slavery, including child trafficking, is child abuse'. It goes on to state that:

'Any child who is recruited, transported, transferred, harboured or received for the purposes of exploitation is considered to be a trafficking victim, whether or not they have been forced or deceived. Even when a child appears to have submitted willingly to what they believe to be the will of their parents or accompanying adults, it is not considered possible for a child to give informed consent.'⁸²

'B' (Not) In the best interests of the child?

Local Authority Children's Services have a statutory duty to protect and support all child victims of modern slavery in the UK. This statutory duty is placed on local authorities through the Modern Slavery Act 2015,⁸³ the Children Act 1989⁸⁴ and 2004,⁸⁵ the Children (Scotland) Act 1995,⁸⁶ and The Children (NI) Order 1995.⁸⁷

⁷⁹ Ibid.

⁸⁰ In England and Wales, the NRM recognises potential victims of slavery, servitude, forced or compulsory labour as well as human trafficking. However, in Scotland and Northern Ireland, the NRM considers only those who are potential victims of human trafficking, and human trafficking has a more selective remit of criteria, meaning fewer victims will meet the definition.

⁸¹ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) at p3 Available online https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/510091/NRM_-_guidance_for_child_first_responders_v2.0_EXT.PDF (Accessed 27 July 2019).

⁸² Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) at p 5. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁸³ Home Office Modern Slavery Act 2015.

⁸⁴ Children Act 1989.

⁸⁵ Children Act 2004.

⁸⁶ Children (Scotland) Act 1995.

⁸⁷ The Children (NI) Order 1995.

Children's Services are led by Safeguarding Partners in England, (which replaced Safeguarding Children Boards in 2019).⁸⁸ In Scotland it is the responsibility of the Child Protection Committees; in Northern Ireland it is the responsibility of the Safeguarding Board for Northern Ireland (SBNI); and in Wales it is the responsibility of the Regional Safeguarding Children Boards, to coordinate child protection policies, procedures and guidance. Specific front-line staff (known as first responders) working within children's services are responsible for making a formal referral to the NRM.⁸⁹ They follow the established local child protection processes, which run alongside the NRM referral. First responders are designated statutory authorities and non-governmental organisations.⁹⁰ They include certain parts of The Home Office, Health and Social Care Trusts in Northern Ireland (HSC Trusts), the Police, the National Crime Agency (NCA), Local Authorities, Gangmasters Labour Abuse Authority, and a number of named NGOs, including children specific NGOs Barnardo's and the National Society for the Prevention of Cruelty to Children.⁹¹

Unlike adult victims of modern slavery and human trafficking, first responders do not require the consent of the child victim before making the referral to the NRM,⁹² and 'all children identified as potential victims of modern slavery should be referred

⁸⁸ HM Government 'Working Together to Safeguard Children. A guide to inter-agency working to safeguard and promote the welfare of children' July 2018, DFE-00195-2018. Available online assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779401/Working_Together_to_Safeguard-Children.pdf (Accessed 16 June 2019).

⁸⁹ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) at p 5. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁹⁰ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) at p 5. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁹¹ Ibid.

⁹² Home Office 'Modern slavery victims: referral and assessment forms. (Adult; Child) (England and Wales; Scotland and Northern Ireland)' (2019) Available online www.gov.uk/government/publications/human-trafficking-victims-referral-and-assessment-forms (Accessed 17 June 2019).

to the NRM.⁹³ The NRM: guidance for child first responders, version 2, states that, 'It is good practice to consult the child when making the NRM referral, explaining the purpose, concerns, benefits and the possible outcomes.'⁹⁴ However, the term 'It is good practice' does not equate to a requirement for front-line professionals to 'consult the child'. Therefore, the child is not guaranteed to have their views sought or given due weight in matters affecting them (Article 12), or to ask for and receive information on their situation (Article 13).⁹⁵

Where there is an age dispute and the front-line professionals have reason to believe the victim could be an adult, the victim is dealt with as if they are a child until otherwise proven.⁹⁶ Consent of the victim is not required at this time. However, if the victim is found to be 18 or over, a consent form will be required.⁹⁷ Children, like adults, are assigned a 45-day 'recovery and reflection period'⁹⁸ in order to 'ensure all relevant information has been obtained.'⁹⁹ If it is in the 'best interests of the child,'¹⁰⁰ the competent authority may extend that recovery and reflection period if there is more relevant information to be obtained. It should be noted that 'the best interests of the child'¹⁰¹ is a somewhat vague statement,¹⁰² and may allow those who are considering this to create their own specific interpretations. Children are managed

⁹³ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) at p 5. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁹⁴ Ibid. at p 16.

⁹⁵ UN 'The Convention on the Rights of the Child, 1989'.

⁹⁶ Home Office 'Assessing age. Version 3.0' (2019) Available online assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/804760/Assessing-age-asylum-instruction-v3.0ext.pdf (Accessed 13 June 2019).

⁹⁷ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

⁹⁸ Ibid. at p 20.

⁹⁹ Ibid. at p 21.

¹⁰⁰ UN 'The Convention on the Rights of the Child, 1989' Art 3.

¹⁰¹ Ibid.

¹⁰² M Liebel 'Children's rights from below' (Palgrave MacMillan, 2012).

by children's services and only referred to the NRM for statistics. Therefore, it is not clear if all children receive this 45-day recovery and reflection period allocated by the NRM. This is despite the fact that child first responders are advised that '[i]f the competent authority makes a positive reasonable grounds decision, the individual must be given support if they want it during a 45-day recovery and reflection period.'¹⁰³ While this suggests a degree of participation on the part of the child, our experience indicates that this is not upheld in practice. This is an example of where the provision and protection rights are being held in higher regard than the right to participation.

Recent research by Alinka Gearon on the experiences of 20 young people who were 'trafficked into and within England' found that many described their experiences with front-line staff in children's services as extremely negative.¹⁰⁴ In many cases, the young people perceived being treated as criminals. Gearon argues this is an example of 'victim-blaming' and calls for children's services to uphold the children's right to protection.¹⁰⁵ Silvie Bovarnick states that 'victim-blaming' is due to the children's services staff being confused as to whether the child was coerced (trafficked) or gave consent (smuggled), in their assessment of the child. The study specifically highlights the importance of 'the terminology used' and argues that it 'has a direct impact on how children are perceived and treated'.¹⁰⁶ However, there should be no confusion as according to the Modern Slavery Act,¹⁰⁷ all children in this

¹⁰³ Home Office 'National referral mechanism: guidance for child first responders: version 2' (2016) Emphasis added. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

¹⁰⁴ A Gearon 'Child Trafficking: Young People's Experiences of Front-Line Services in England' (2019) 59 *The British Journal of Criminology* 481. At p 481. Available online academic.oup.com/bjc/article/59/2/481/5129105 (Accessed 24 April 2019).

¹⁰⁵ Ibid.

¹⁰⁶ S Bovarnick 'How Do You Define a 'Trafficked Child'? A Discursive Analysis of Practitioners' Perceptions around Child Trafficking' (2010) 104 *Youth and Policy* 80; 86.

¹⁰⁷ Home Office Modern Slavery Act 2015.

situation, regardless of their consent, are victims of modern slavery, therefore labelling a child in this way is irrelevant in regards to how the child should be treated. This indicates a lack of understanding of the laws, policies and procedures by children's services staff, including a lack of knowledge and awareness regarding the CRC.

A recent Anti-Trafficking Monitoring Group Report (ATMG) (2018) included comments from an ECPAT youth group, regarding their experiences of children's services,

'The problem is that they [social services] don't listen to you. You go to many meetings, it is very confusing and you don't really understand everything. It always feels like you can say something, but they have already made up their mind and do what they want anyway.'¹⁰⁸

Children have been described by NGOs and media commentators as 'an afterthought' in relation to the government's anti-slavery agenda.¹⁰⁹ This has been identified previously; several years before the Modern Slavery Act (2015), in 2012 ATMG¹¹⁰ stated that the voice of 'trafficked victims' including children's voices was absent from policies and practices in the UK. However, current reports¹¹¹

¹⁰⁸ Anti-Trafficking Monitoring Group 'Before the Harm is Done Examining the UK's response to the prevention of trafficking' (2018) at p 64. Available online: www.antislavery.org/wp-content/uploads/2018/09/Before-the-Harm-is-Done-report.pdf (Accessed 21 May 2019).

¹⁰⁹ C Baker 'Children are an afterthought on the government's anti-slavery agenda' Thompson Reuters Foundation News 2018. Available online www.news.trust.org/item/20180621110740-4jzki/ (Accessed 23 May 2019). C Setter and C Baker 'Child trafficking in the UK 2018: A snapshot'. (ECPAT, 2018) Available online www.ecpat.org.uk/Handlers/Download.ashx?IDMF=de66f2c7-64f9-485f-bb45-e3f38b7b4675 (Accessed 23 May 2019).

¹¹⁰ Anti-Trafficking Monitoring Group 'All Change: Preventing Trafficking in the UK' (Anti-Slavery International for the Anti-Trafficking Monitoring Group, 2012).

¹¹¹ C Baker 'Children are an afterthought on the government's anti-slavery agenda' Thompson Reuters Foundation News 2018. Available online www.news.trust.org/item/20180621110740-4jzki/ (Accessed 23 May 2019). C Setter and C Baker 'Child trafficking in the UK 2018: A snapshot'. (ECPAT, 2018) Available online www.ecpat.org.uk/Handlers/Download.ashx?IDMF=de66f2c7-64f9-485f-bb45-e3f38b7b4675 (Accessed 23 May 2019).

demonstrate that there has been very little change in modern slavery policies and practices in the UK to listen to the ‘voice of the child’.

Significant criticisms of the lack of appropriate responses and support for children who have experienced trafficking assert that these ‘structural issue[s]’ are ‘exacerbated and often created by poor resourcing and policy choices that make children vulnerable.’¹¹² One clear structural issue is the positioning of child protection responsibilities and their devolution to local authorities in the UK. As evidence demonstrates, there exists a lack of awareness of the issues of children’s experiences of modern slavery and the CRC. As a result of this, recording practices are inconsistent, ineffective and thus, children may become that ‘hidden’ or ‘invisible’ figure in the national statistics and data available. It is, therefore, both difficult to monitor the numbers of children who are victims of modern slavery and to access information about their outcomes after they are referred.

In July 2018, the UK Government announced that it had commissioned an independent review of the 2015 Act to assess its effectiveness and to consider possible improvements. The review was focussed on a limited number of key areas within the Act: the role of the Independent Anti-Slavery Commissioner, transparency in supply chains, independent child trafficking advocates and the legal application of the Modern Slavery Act.¹¹³

Relevant to this article are the findings of this review in relation to Independent Child Trafficking Advocates (ICTAs). The term was changed to Independent Child

¹¹² C Baker ‘Children are an afterthought on the government’s anti-slavery agenda’ Thompson Reuters Foundation News 2018. Available online www.news.trust.org/item/20180621110740-4jzki/ (Accessed 23 May 2019).

¹¹³ HM Government ‘Independent Review of the Modern Slavery Act 2015: Final Report’ (2019). Available online assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf (Accessed 31 May 2019).

Trafficking Guardians (ICTGs) and became a statutory provision under Section 48 of the Modern Slavery Act 2015¹¹⁴ with the intention that they would be used to support trafficked children and ensure that their voices are taken into account regarding all decisions made about them¹¹⁵ A trial of ICTGs was conducted between 2014 and 2015 in a small number of local authorities in England. In October 2017, the Government announced that it would commence section 48 and commit to a full national rollout of the ICTG service across England and Wales.¹¹⁶ The national rollout was limited in its initial scope, with the rollout occurring incrementally, initially in early adopter sites and subsequently in additional sites in the Midlands and Croydon. Currently one third of Local Authorities in England and Wales offer the ICTG service.¹¹⁷

There have been three separate key evaluations focussing on this scheme, July 2018¹¹⁸ March 2019¹¹⁹ and July 2019,¹²⁰ all recommending that the scheme should be extended. The first two evaluations include criticism of the scheme due to the

¹¹⁴ Home Office Modern Slavery Act 2015.Sec 48.

¹¹⁵ This corresponds with the participation aspect of the CRC (Article 3), allowing the child to have a say over issues that affect them directly.

¹¹⁶ Home Office and Sarah Newton MP 'Modern slavery victims to receive longer period of support, Government of the United Kingdom'. News Story 26 October 2017. Available from www.gov.uk/government/news/modern-slavery-victims-to-receive-longer-period-of-support. (Assessed 16 May 2019).

¹¹⁷ KS Kohli, H Connolly. H Stott, S Roe, S Prince, J Long and S Gordon-Ramsay 'An evaluation of Independent Child Trafficking Guardians - early adopter sites.' Final Report 111, 2019. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf (Accessed 25 October 2019)

¹¹⁸ J Keeble, A Fair and S Roe. 'An assessment of Independent Child Trafficking Advocates. Interim findings.' Home Office Research Report 101, 2018. Available online: assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/730098/assessment-of-independent-child-trafficking-advocates-horr101.pdf (Accessed 01 April 2019).

¹¹⁹ F Field, M Miller, and A E O Butler-Sloss' Independent Review of the Modern Slavery Act: Third Interim Report Independent Child Trafficking Advocates' (2019). Available online drive.google.com/file/d/1pQBxZTuLjZV8GQt9qSvQdG6xeI3QU8Z4/view (Accessed 21 May 2019).

¹²⁰ KS Kohli, H Connolly. H Stott, S Roe, S Prince, J Long and S Gordon-Ramsay 'An evaluation of Independent Child Trafficking Guardians - early adopter sites.' Final Report 111, 2019. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf (Accessed 25 October 2019)

limited number of areas in England and Wales where the service is available and the lack of a conclusive plan for further extending its reach.

Scotland and Northern Ireland have also established Independent Guardians.

Although critical that there has not been a national rollout in England and Wales, the 2019 report identifies the significant benefits of the ICTG scheme since January 2017, delivered by Barnardo's. According to this report, the benefits are,

- '1. As a service that is independent of all other public authorities.
2. As a service that is a companion for a trafficked child, helping them to navigate towards a safer future.
3. As an expert resource for public authorities when knowledge of child trafficking may be low and the need to ensure protection and care of a trafficked child is high.'

The March 2019¹²² report offers nine main recommendations on the topic of ICTGs.

To summarise, it recommends that the initiative for ICTGs be rolled out, with children provided a one-to-one ICTG who assesses a child's needs on an individual basis.¹²³

The support offered by these ICTGs should not be automatically stopped when a child reaches the age of 18 but should continue if the child still requires support, and better guidance should be offered to those transitioning between child and adult services. Equally, the support should not automatically end after 18 months when the

¹²¹ HM Government 'Independent Review of the Modern Slavery Act 2015: Final Report' (2019) at p 48.

Available online

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf (Accessed 31 May 2019).

¹²² HM Government 'Independent Review of the Modern Slavery Act 2015: Final Report' (2019). Available online

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf (Accessed 31 May 2019).

¹²³ Ibid.

child still has need for it, nor should the case of a missing child be closed until that child is found. The overall recommendation of this review relating to ICTGs was that 'Section 48 should be commenced and the full rollout of the ICTG service across England and Wales should take place as soon as possible.'¹²⁴ With an expansion of the ICTG service, we may begin to see the establishment of child participation relating to decisions over their own care and recovery after an experience of modern slavery or human trafficking.

The July 2019 Evaluation¹²⁵ focused on what 'added value' the ICTG service provided not only to child victims of modern slavery but also to staff working with the children. The evaluation identified three key elements that the ICTGs offered.

1. 'Relationship building' developing and building trust with children who are trafficked. This 'led to greater disclosure of information, with children recognising that ICTGs ensured their voice was heard, and their best interests were represented, when feeding in to the various processes (immigration, CJS and NRM) that the children were involved in'.¹²⁶
2. Being a consistent presence in the life of the child, the ICTG could focus 'on the child's needs and perspectives'.¹²⁷ This was identified as 'in contrast to the wider range of statutory responsibilities for social workers' and the high turnover of social work staff'.¹²⁸

¹²⁴ HM Government 'Independent Review of the Modern Slavery Act 2015: Final Report' (2019) at p 59.

Available online

assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/803406/Independent_review_of_the_Modern_Slavery_Act_-_final_report.pdf (Accessed 31 May 2019).

¹²⁵ KS Kohli, H Connolly, H Stott, S Roe, S Prince, J Long and S Gordon-Ramsay 'An evaluation of Independent Child Trafficking Guardians - early adopter sites.' Final Report 111, 2019. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf (Accessed 25 October 2019)

¹²⁶ Ibid. at p42.

¹²⁷ Ibid.

¹²⁸ Ibid.

3. The work of the ICTGs indicated that they ‘improve the NRM decision-making process through better quality information’¹²⁹.

The Evaluation also includes the following recommendations:

1. ‘That further research is conducted in order to understand how the regional practice coordinator role is operating in the existing sites.
2. The evaluation highlights stakeholder concerns with transitioning young people into adult services without dedicated trafficking support. This should be considered further prior to national rollout.
3. This report recommends that the practice of closing cases of missing children after six months should be reconsidered prior to the national rollout, particularly as resource and risks to children are better understood over time.
4. The quantitative evidence suggests that missing incidents increase after a child has spent six months in the Service. Prior to national rollout there should be further consideration given to how ICTGs might be able to reduce the risk of children that spend six months or longer in the Service going missing.’¹³⁰

It is interesting to note that although quotes from ICTGs and prompts for the interview questions refer to the human rights of children, and the report identifies as good practice that the ICTGs ‘ensured their voice was heard, and their best interests were represented,’¹³¹ the July 2019 evaluation makes no link or reference to the CRC.

¹²⁹ KS Kohli, H Connolly, H Stott, S Roe, S Prince, J Long and S Gordon-Ramsay ‘An evaluation of Independent Child Trafficking Guardians - early adopter sites.’ Final Report 111, 2019. At p. 42. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf (Accessed 25 October 2019)

¹³⁰ Ibid. At p. 43-44.

¹³¹ Ibid. At p. 42.

In addition to these reports, there have been several proposals for changes made by NGOs and campaigners, which would place children and their rights at the centre and prioritise child protection, alongside ensuring that the views of children and young people are listened to and considered.¹³² Children and young people who are victims of modern slavery should be treated and considered as agentic and given opportunities to say what they think in this matter. If these views are then respected and acted upon, not only can the provision prioritise protection, but it can lead to a more rights-based participatory approach to modern slavery in the UK.

‘A’ The CRC 3 Ps in Practice

‘B’ The significance of child participation

Initially, it is important to briefly outline the provision and protection strands of the 3Ps to emphasise the significance of ‘participation’. Provision rights are the resources required to be able to help a child achieve their rights. Ann Quennerstedt argues that there has been a lack of theorisation of the term ‘provision’ but that the terminology suggests that the child is the receiver of some kind of rights – passive and inactive – which do not require agency on the part of the child.¹³³ Provision rights can be seen as the combination of resources which are put in place to help the realisation of protective and participatory rights, as well as access to sources to ensure the fulfilment of other rights.¹³⁴ For present purposes, this relates to the

¹³²Anti-Trafficking Monitoring Group ‘Before the Harm is Done Examining the UK’s response to the prevention of trafficking’ (2018) Available online: www.antislavery.org/wp-content/uploads/2018/09/Before-the-Harm-is-Done-report.pdf (Accessed 21 May 2019).

¹³³A Quennerstedt ‘Children, But Not Really Humans? Critical Reflections on the Hampering Effect of the “3 p’s”’ (2010) 18 *International Journal of Children’s Rights* 619.

¹³⁴ Ibid.

identification of children who are victims of slavery and the mechanisms in place for addressing slavery.

Protection rights are not difficult to distinguish when specifically referring to children; they are rights which seek to ensure a child does not come to any harm. Protection rights, or social rights are those which were readily recognised in the 1924¹³⁵ and 1959¹³⁶ Declarations on the Rights of the Child. There has always been a clear recognition, which long preceded the CRC, that children need to be protected, that they are vulnerable and require ‘special protection’.¹³⁷

Child protection (Article 19)¹³⁸ is a vital first response in situations of modern slavery. However, front-line professionals prioritise the physical or emotional harm to the child as an ongoing process, rather than viewing these violations as breaches of the child’s human rights.¹³⁹ Children’s participation is essential, and will not only provide an important impact on practice but will align the practice to the CRC. Without this participation, stereotypical representations of children will be homogeneous. Children will be portrayed as passive and in need of protection.

Participation rights are referred to as those which ensure that children are seen as ‘active agents in their own lives’.¹⁴⁰ The participation principles of the CRC require the recognition of the view that children are acknowledged as human beings who

¹³⁵ League of Nations ‘Declaration of the Rights of the Child’ (1924) Available online www.un-documents.net/gdrc1924.htm (Accessed 16 April 2019).

¹³⁶ UN ‘Declaration of the Rights of the Child 1959’

¹³⁷ UN ‘The Convention on the Rights of the Child, 1989’

¹³⁸ Ibid.

¹³⁹ T M Collins and C Gervais ‘Children’s Rights: Their Role, Significance and Potential’ in *Current Issues and Controversies in Human Rights*, ed. Gordon DiGiacomo (University of Toronto Press, 2016).

¹⁴⁰ UNICEF ‘Child Rights Toolkit: Integrating Child Rights in Development Cooperation, module 3’ (2014) Available online www.unicef.org/eu/crtoolkit/downloads/Child-Rights-Toolkit-Web-Links.pdf (Accessed 05 May 2019).

have the right to active participation in all aspects of their lives.¹⁴¹ According to Janette Habashi et al.¹⁴² in practice, active participation alongside provision and protection can be difficult to realise and, in some cases, unachievable. However, a recent guide by the European Union Agency for Fundamental Rights and European Commission asserts that all organisations and individuals who have a responsibility to support child victims of modern slavery, should '[h]ear the child and consider the child's views.'¹⁴³

Participation is interpersonal and will, therefore, need to be carefully considered in regards to meeting the needs of child victims of modern slavery. Several principles exist to guide the reconceptualisation we are calling for, including the best interests of the child and supporting the child to exercise their rights. This can only be achieved by providing children with clear information. UNICEF refers to these rights as including the right to have views respected (Article 12); freedom of expression (Article 13); freedom of thought, conscience and religion (Article 14) and the right to privacy (Article 16).¹⁴⁴ It is frequently stated that the participation group of rights, particularly Article 12, is important, 'not only for what it says, but because it recognises the child as a full human being with integrity and personality and the ability to participate freely in society.'¹⁴⁵

¹⁴¹ L Lundy "'Voice" is not enough: conceptualising Article 12 of the United Nations Convention on the Rights of the Child". (2007) 33 British Educational Research Journal 927. Available online www.tandfonline.com/doi/abs/10.1080/01411920701657033 (Accessed 04 May 2018).

¹⁴² J Habashi, S T Driskill, J H Lang, and P L DeFalco 'Constitutional analysis: A proclamation of children's right to protection, provision, and participation' (2010) 18 *International Journal of Children's Rights* 267.

¹⁴³ European Union Agency for Fundamental Rights and European Commission 'Children deprived of parental care found in an EU Member State other than their own. A guide to enhance child protection focusing on victims of trafficking' (Publications Office of the European Union, 2019 at p 128).

¹⁴⁴ UNICEF 'The rights of every child' (2016) Available online www.unicef.org.uk/child-rights-partners/wp-content/uploads/sites/3/2016/08/CRC_summary_leaflet_Child_Rights_Partners_web_final.pdf (Accessed 12 April 2019).

¹⁴⁵ M Freeman 'Children's Education: A test case for best interests and autonomy' In R Davie & D Galloway (Eds) 'Listening to Children in Education' (David Fulton Publishers, 1996 at p 37).

This is a powerful statement and emphasises the importance of participation within the CRC. This recognition of participation in society, which was perceived as undermining adult authority over their children, was one of the main reasons that the United States did not ratify the Convention at all.¹⁴⁶ The introduction of CRC was the first time that there was a legally binding obligation upon member states to recognise the abilities of children to participate as active right holders. Despite the general comments specifically referring to participation, and much discussion around Article 12, it is still recognised as one of the least theorised and integrated parts of the entire CRC.¹⁴⁷ The importance of recognising children as agents with participatory rights as well as individuals who should be protected should be borne in mind when considering how modern slavery victims are treated.

‘B’ The efficacy of existing law and policy

Prioritising policies and practices against modern slavery indicates a determination by the UK Government to tackle modern slavery. However, it has been criticised for the lack of support offered to victims, as well as the limitations of the law, as the legislation has not been used fully to imprison those found guilty of trafficking people.¹⁴⁸ Findings from research and reports from NGOs identify a major concern regarding the numbers of children who are victims of modern slavery, who are taken

¹⁴⁶ S Kilbourne ‘The Wayward Americans – why the USA has not ratified the United Nations Convention on the Rights of the Child’ (1998) CFLQ 243.

¹⁴⁷ A Parkes ‘Children and International Human Rights Law: The Right of the Child to be Heard’ (Routledge, Oxon, 2013). T M Collins ‘A child’s right to participate: Implications for international child protection’ (2017) 21 The International Journal of Human Rights 14.

¹⁴⁸ C Setter and C Baker ‘Child trafficking in the UK 2018: A snapshot’. (ECPAT, 2018) Available online www.ecpat.org.uk/Handlers/Download.ashx?IDMF=de66f2c7-64f9-485f-bb45-e3f38b7b4675 (Accessed 23 May 2019). Thomson Reuters Foundation (2018b) ‘Hundreds of trafficked children go missing from UK care’ (Thomson Reuters Foundation, 19 December 2018). Available online news.trust.org/item/20181219170931-4fzv8/ (Accessed 22 May 2019). A Gearon ‘Child Trafficking: Young People’s Experiences of Front-Line Services in England’ (2019) 59 *The British Journal of Criminology* 481.

into care and subsequently go missing. A recent study highlighted that nearly a quarter of the 1,015 identified or suspected child victims of trafficking in the care of the local authorities went missing at least once in the last year, with 246 children recorded as missing in 2017, compared to 167 recorded in 2015.¹⁴⁹ The report also states that about a fifth of the 975 trafficked or unaccompanied children reported as missing from care in the UK were not found. Reasons for running away from care include the poor accommodation, fear of authorities and the ongoing control of human traffickers. In response to the reports that children who had been trafficked were being failed by the care system in the UK, the Home Office announced that the UK would launch its first safe house for children.¹⁵⁰ The 'Unseen Children's House' pilot project launched by the Home Office, provides 'highly specialist accommodation and care services to give trafficked children the intense support they need.'¹⁵¹ Although the project has shown this model works, the safe house has received fewer referrals than they expected. The cost of placing a child here is substantially higher than other facilities due to the 'bespoke solutions' the home offers.¹⁵² Therefore, Unseen has decided not to develop the Children's House further until they carry out further research on the safety and needs of trafficked children.¹⁵³ Findings obtained by the Thomson Reuters Foundation, allege that figures illustrate that the UK Home Office is 'denying asylum to an increasing number of former child slavery victims despite fears many will fall back under the control of their traffickers if they are

¹⁴⁹ ECPAT and Missing People 'Still in Harm's Way: An update report on trafficked and unaccompanied children going missing from care in the UK', December 2018. Available online www.missingpeople.org.uk/files/PandR/Still_in_Harms_Way_Final.pdf (Accessed 23 May 2019).

¹⁵⁰ Thomson Reuters Foundation 'Britain's First Safe House for Trafficked Kids' (17 September 2018) Available online <https://www.freedomunited.org/news/britains-first-safe-house-for-trafficked-kids/> (Accessed 25 July 2019)

¹⁵¹ Unseen 'Children's House Pilot Project' (2018) Available online www.unseenuk.org/what-we-do/chips-in-development (Accessed 23 May 2019).

¹⁵² Ibid.

¹⁵³ Unseen 'Children's House Pilot Project' (2018) Available online www.unseenuk.org/what-we-do/chips-in-development (Accessed 23 May 2019).

deported.’¹⁵⁴ Research by Patricia Hynes on possible child victims of slavery found that ‘[f]ear of the authorities and the threat (real or perceived) of deportation can mean that such mistrust becomes a strategy for survival.’¹⁵⁵

A second concern is that the criminalisation of children who have been the victims of trafficking often leads to their refused asylum in the UK, which NGOs, researchers, lawyers and campaigners have highlighted as being one significant issue of concern. Catherine Baker, senior research officer of ECPAT, has stated that ‘Too often these children are treated as criminals or immigration offenders, rather than vulnerable children requiring support.’¹⁵⁶ Research by Carly McLaughlin suggests that child victims of slavery, who do not look like a child (under 18 years), are perceived as not telling the truth and therefore treated as criminals.¹⁵⁷ According to Hynes the ‘threat of deportation, particularly when approaching the age of 18, was repeatedly commented upon as a concern’ by child victims of slavery.¹⁵⁸ Further to this, according to information from a Freedom of Information request on child victims of slavery in the UK, by Thompson Reuters Foundation, ‘between 2015 and 2017 the government denied asylum to 183 people trafficked or enslaved as children – double the total for the previous three years.’¹⁵⁹

¹⁵⁴ Thomson Reuters Foundation ‘UK refusing asylum to more ex-child slaves despite safety fears’. (Thompson Reuters Foundation, 14 August 2018) Available online www.reuters.com/article/us-britain-slavery-immigration-children/exclusive-uk-refusing-asylum-to-more-ex-child-slaves-despite-safety-fears-idUSKBN1KZ00W (Accessed 05 June 2019).

¹⁵⁵ P Hynes ‘Global points of ‘vulnerability’: understanding processes of the trafficking of children and young people into, within and out of the UK’ (2010) 14 *The International Journal of Human Rights* 952. At p 964.

¹⁵⁶ Thomson Reuters Foundation ‘Hundreds of trafficked children go missing from UK care’ (Thomson Reuters Foundation, 19 December 2018). Available online news.trust.org/item/20181219170931-4fzv8/ (Accessed 22 May 2019).

¹⁵⁷ C McLaughlin. ‘They don’t look like children’: child asylum-seekers, the Dubs amendment and the politics of childhood’ (2018) 44 *Journal of Ethnic and Migration Studies* 1757.

¹⁵⁸ P Hynes ‘Global points of ‘vulnerability’: understanding processes of the trafficking of children and young people into, within and out of the UK’ (2010) 14 *The International Journal of Human Rights* 952. At p 963.

¹⁵⁹ Thomson Reuters Foundation ‘UK refusing asylum to more ex-child slaves despite safety fears’. (Thompson Reuters Foundation, 14 August 2018) Available online www.reuters.com/article/us-britain-slavery-immigration-children/exclusive-uk-refusing-asylum-to-more-ex-child-slaves-despite-safety-fears-idUSKBN1KZ00W (Accessed 05 June 2019).

ECPAT asserts that the process of denying asylum to individuals who were children when they were enslaved, is ongoing with little built-in or independent scrutiny mechanisms, no proper conducted risk assessment and they predict that on return, many young people are likely to be further exploited or experience re-trafficking.¹⁶⁰

NGOs criticise the government's approach to child trafficking for being fragmented and lacking facilities and provisions for specialist care for children, proposing that there needs to be the creation of, 'support networks that can make children and their families resilient to being coerced, are able to spot the worrying signs quickly, and can provide specialised support for children who have already been trafficked.'¹⁶¹

The third concern, is the lack of awareness and training for the professionals who work directly with child victims of modern slavery. A study by Claire Ross et al. found that 87% of NHS professionals stated they lacked knowledge regarding identifying victims of modern slavery and 78% stated that they had not received adequate training to be able to make a referral.¹⁶² This study also identified that, 'the majority of participants did not feel confident of making appropriate referrals for trafficked women (n=528, 69%), men (n=556, 73%), and children (n=418, 55%).'¹⁶³ Elizabeth Such and colleagues agree with these findings and argue that although, 'Health professionals are well placed to identify and advocate for victims' they 'are often unaware of what it is, what it looks like, who it affects, and what, if anything, they can do about it'.¹⁶⁴

¹⁶⁰ Ibid.

¹⁶¹ Thomson Reuters Foundation 'UK "failing" to save thousands of children from modern slavery' (Thompson Reuters Foundation, 11 September 2018). Available online www.reuters.com/article/us-britain-slavery-children/uk-failing-to-save-thousands-of-children-from-modern-slavery-idUSKCN1LR169 (Accessed 22 May 2019).

¹⁶² C Ross, S Dimitrova, L M Howard, M Dewey, C Zimmerman, and S Oram 'Human trafficking and health: cross-sectional survey of NHS professionals' contact with victims of human trafficking' (2015) 5 BMJ Open 1.

¹⁶³ Ibid.

¹⁶⁴ E Such, E Walton, T Bonvoisin and H Stoklosa 'Modern slavery: a global public health concern' (2019) 364 BMJ I838.

Likewise, the Chief Executive of Barnardo's, has stressed the importance of 'trafficked children get[ting] the help they need to recover from the exploitation and trauma they have suffered', and proposed that one core aim would be to 'upskill more professionals working with children to understand their vulnerabilities, including the risk of being trafficked internally'.¹⁶⁵

These criticisms indicate that the current policies and practices in the UK are not meeting the needs of children who are child victims of modern slavery. Therefore, a review of the current approach is needed.

'A' Conclusions and Recommendations

'B' Conclusions

Slavery is one of the most egregious breaches of human rights, along with the right not to be subjected to torture, inhuman and degrading treatment. Governments across the world have obligations to take measures to prevent slavery and to identify and liberate victims. When those victims are children, a range of additional obligations come into effect; not only should they ensure that the child is removed to a place of safety and care, where possible through reunification with their family, but they should enjoy a range of other rights, including education and health, and be given support to reintegrate. The requirements to protect are clear, as are the forms of state provision that might be expected. The UK has made significant progress in both of these areas, although, as shown, there are areas where more needs to be done for children, not least treating them as victims rather than perpetrators, being

¹⁶⁵ J Khan 'Barnardo's welcomes expansion of ICTA scheme to support even more trafficked children'. Press Release 09 October 2018. Available online www.barnardos.org.uk/news/Barnardo8217s_welcomes_expansion_of_ICTA_scheme_to_support_even_more_trafficked_children_/latest-news.htm?ref=130580 (Accessed 19 April 2019).

willing to listen to their version of events without having already made a decision, and treating them equally regardless of their immigration status and allowing them a say in the decisions that affect them.

Children who are victims of slavery are rights-holders; irrespective of their gender, ethnicity or country of origin, they are entitled to all of the rights in the CRC as well as targeted protection from the danger and abuse they have encountered. Yet, while protection is undoubtedly a key priority in all cases which fall within modern slavery legislation, so too is the recognition that they are entitled to be heard in and influence the outcome of the decisions that are made about them. Protection should not be permitted to eclipse participation, and by extension, autonomy. Yet, having shone a child rights torch on this issue, it is apparent that the predominant approach in the UK currently neglects this crucial third dimension of children's rights – participation.

This is significant in a number of respects. First, it is at the heart of a rights-based approach and, indeed, the reason the CRC is and was so significant lies in its recognition that children are not only objects of care and protection, but human beings entitled to influence their own lives. This is crucial for children generally since they have historically been side-lined in the decisions that impact on them. It is also even more important when these children have been victims of slavery. Slavery is widely recognised as one of the worst forms of human rights abuse because of the very fact that it strikes at the individual's capacity for self-determination. Freeing a child from slavery should mean that every effort should be made to restore this dimension of rights of the child, enabling them to contribute to, or make key decisions that affect them. Yet, what we have seen is that in this instance, the overarching (and somewhat understandable response to suffering) yet unjustifiable (from the lens of human rights) response is to protect.

This is untenable from a children's rights perspective. Policies and practices need to be reviewed to see where and how children might contribute and how they might do so as agents of change. Doing so may have a significant impact on processes and their results. Children 'should be seen as survivors and active participants in creating solutions, not just as victims or problems.'¹⁶⁶ A children's rights approach thus requires a different tactic, one that respects children and young people and their capacities and involves them as active participants in finding solutions to issues affecting them.¹⁶⁷ Concepts of children as victims of modern slavery shape children's lives. Therefore, children should be given a role as active participants to, in turn, shape new concepts that can lead to effective modern slavery policies and practices.

'B' Policy and Practice Recommendations

We have identified a range of concerns and criticisms regarding the lack of a rights-based approach in meeting the needs of child victims of modern slavery in this article. We would now like to focus on three key recommendations that, through changes to policy and practices, we believe would support the active participation of child victims of modern slavery in the UK.

1. Children are entitled to have their views given due weight in all matters affecting them in line with their age and maturity, as stated in Article 12 of the CRC.

¹⁶⁶ UNICEF 'Machel Study 10-Year Strategic Review: Children and Conflict in a Changing World' (Office of the Special Representative of the Secretary-General for Children and Armed Conflict in collaboration with UNICEF, 2009). Available online www.unicef.org/publications/files/Machel_Study_10_Year_Strategic_Review_EN_030909.pdf (Accessed 20 May 2018).

¹⁶⁷ M Ruiz-Casares, T M Collins, K M Tisdall and S Grover 'Children's rights to participation and protection in international development and humanitarian interventions: nurturing a dialogue' (2017) 21 *The International Journal of Human Rights* 1.

¹⁶⁸ Equally, the National Referral Mechanism: guidance for child first responders, version 2, states that ‘It is good practice to consult the child when making the NRM referral, explaining the purpose, concerns, benefits and the possible outcomes.’¹⁶⁹ As such, there should be changes to all child referral forms to ensure children are consulted with during the National Referral Mechanism process. These changes would require all front-line staff to gather the views of the child, including what the child would like to happen. Relevant policies should also be amended to include clear requirements that ensure the child’s views are acquired, heard and considered. Children should also participate in the development, implementation and evaluation of such policies and documents.

2. The role of Independent Child Trafficking Guardians (ICTGs) in England and Wales and Independent Guardians in Scotland and Northern Ireland, should be extended and offered to all child victims of modern slavery. This is a statutory provision under Section 48 of the Modern Slavery Act.¹⁷⁰ The ICTGs/ Independent Guardian’s role should include responsibilities for assessing the individual needs of each child, and ensuring that the voice of the child is listened to and taken into account regarding all decisions made about them. Decisions should always be made in the best interests of the child. Having an ICTG/Independent Guardian has been identified¹⁷¹ as supporting and adhering to the participation aspect of the CRC, allowing the child to have a say over issues that affect them directly. The

¹⁶⁸ UN ‘The Convention on the Rights of the Child, 1989’

¹⁶⁹ Home Office ‘National referral mechanism: guidance for child first responders: version 2’ (2016) at p 16. Available online www.antislaverycommissioner.co.uk/media/1058/nrm_-_guidance_for_child_first_responders_v20_ext.pdf (Accessed 17 May 2018).

¹⁷⁰ Home Office Modern Slavery Act 2015.

¹⁷¹ KS Kohli, H Connolly, H Stott, S Roe, S Prince, J Long and S Gordon-Ramsay ‘An evaluation of Independent Child Trafficking Guardians - early adopter sites.’ Final Report 111, 2019. At p. 42. Available online: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819723/evaluation-independent-child-trafficking-guardians-final-horr111.pdf (Accessed 25 October 2019)

ICTG/Independent Guardian could provide the child with information and explanations, in a language they are familiar with (the child's preferred language) using words that they will understand, and in a timely manner, regarding what is happening in their situation. This support should continue until the child reaches 18 years, where support and guidance should be offered during the transition between child and adult services, should the individual require further support.

3. Participation is interpersonal and positioned and often heavily relies on relationships having been formed, with an appropriate means of communication between those involved. Participation therefore requires careful consideration in regards to meeting the needs of child victims of modern slavery. Front-line staff are key to providing the protection requirements of a child victim of slavery. They are also pivotal to ensuring the active participation of the child. Through well designed, considered training and reflecting on experience, front-line staff could provide a child with clear, age-appropriate information about their situation and ensure the views of the child are heard and considered. This would not only be in the best interests of the child but would also support the child to exercise their rights and have their views respected. This article has identified instances where a lack of awareness and training of front-line staff has led to a lack of knowledge, experience and confidence when they come across child victims of modern slavery. We recommend a compulsory training programme for all front-line staff that includes knowledge of the CRC 3Ps, provision, protection and participation. We recommend that the training includes case studies that demonstrate how the active participation of children, from a range of ages, can be supported and achieved, and what the implications are of achieving and not achieving this.

‘B’ Recommendations for Further Research

This article has outlined why a rights-based approach is essential in meeting the needs of child victims of modern slavery. We have analysed the existing laws, policies and practices while considering the 3 Ps of provision, protection and participation as a framework to discuss the rights which are most pertinent to child victims of modern slavery. We have made three key recommendations that we believe would support child victims of modern slavery in the UK to be agentic rights-holders with a degree of input over the outcomes of decisions made about their futures. We recommend that further research is needed on the specific children’s rights imperatives and dimensions that arise from the impact of modern slavery policies and practices. Research should also be carried out on how children might meaningfully contribute to a review of modern slavery policies and practices in the UK in order to ensure that these policies and practices effectively and appropriately implement the requirements of the CRC.