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Chapter six

Generating the conditions for risk

Chapter four addressed the vulnerabilities caused by conflict and how these vulnerabilities may lead someone directly, or indirectly, into modern slavery. Chapter five considered the ways that individuals have stayed safe from slavery after fleeing a conflict situation to the UK. This chapter turns to look at how risk factors, both to modern slavery and in a more general sense, can be generated and exacerbated by UK policies.

This chapter first considers intersectionality and structural dynamics to understand the interplay between personal characteristics and situational contexts in driving modern slavery. I argue that there is no single or intersecting identity trait that is always responsible for increasing the likelihood that one person will become more vulnerable to modern slavery than another. Instead, it is the context of the situation that should be prioritised in order to identify risk. Contexts that limit people's choices and reduce their agency are those that are most likely to generate a risk to modern slavery; this is regardless of the identity of the person in question.

Second, I consider how some of the UK's restrictive policies significantly increase the risk of individuals suffering exploitation and modern slavery by generating these specific vulnerabilities. I illustrate these points with examples from the respondents. In section 6.2.1 I consider the modern slavery response in the UK and some of its strengths and weaknesses, focusing on how modern slavery has been conflated with immigration crime, and how the long decision-making process can impact those who have already suffered modern slavery. I then go on to look at the asylum system in section 6.2.2 as a context which generates vulnerabilities for those seeking safety in the UK, including giving thought to the long wait for decisions to be made, why people might be encouraged to lie about their experiences, how a lack of information about the system can increase risk, and the psychological impact of the system on those seeking asylum. Section 6.2.3 then gives consideration to the overseas domestic worker tied visa system and how it can generate risk by tying someone's status to their employer. Section

6.3 brings all these discussions together to emphasise how these systems in the UK limit people's choices and support networks, leaving them to make risky decisions which may lead them into exploitative situations and thus mirror the vulnerabilities generated by conflict which can push people towards situations of modern slavery.

6.1 Intersectionality and structural dynamics

The simplest thing to derive from the findings discussed in chapters four and five is that no two people's experiences of fleeing a conflict situation are the same, and that it is simply not plausible to make generalisations. Different backgrounds, choices, and identities lead to different experiences, and it is here that notions of intersectionality should be discussed.

Intersectionality was developed in response to feminist discourses which grouped women by gender alone. Such a grouping was criticised by black feminists for failing to understand how the experiences of race significantly separated black and white women's struggles where, like white women, black women were subordinated by their gender, but also, unlike white women, by the colour of their skin. Their claims were that feminism suggested that all women's experiences were the same, citing the white woman's experience as representative, and overlooking the further struggles faced by non-white women.

Crenshaw (1989) highlighted that black women's experiences were different to white women's and that, as such, they should not be categorised together. Instead, she argued that the experience of black women was to be found where racism and sexism intersected. This began the conception of intersectionality whereby gender is no longer considered an isolated category, but attention is now given to the way it intersects with other categories of identity as a method of understanding inequality (Conaghan, 2009). The purpose of intersectionality was to show that people could have multiple identities at the same time—such as being young, black, female, and living with a disability, for example—rather than each of these identities existing in independence of the others. By understanding this coexistence of identities within one person's experience, intersectionality is able to go beyond analyses of discrimination that are based only on a single identity trait.

Intersectionality is no longer concerned only with the experiences of women, but is used to highlight how the intersections of different identities

can lead any group to experience inequality. To relate intersectionality to the research undertaken for this title, it can be used to highlight the intersections at which people are most likely to experience inequality to an extent that leads them into a situation of modern slavery. However, when considering who may be vulnerable to situations of modern slavery, the literature tends to stay vague, claiming that people become victims of modern slavery because they had previously been vulnerable ‘in some way’. This is not a helpful assertion and fails to highlight any specific vulnerabilities.

Modern slavery studies often tend to focus on the end result of the slavery rather than the root causes (e.g. Craig et al., 2007; Bales and Trodd, 2008; Kara, 2009; Murphy, 2014; Human Trafficking Foundation, 2015, 2016; Anti-Slavery International, 2017). They concentrate on individual forms of slavery, such as child slavery, sexual exploitation, or labour exploitation, meaning that the reasons that the slavery occurred are often overlooked. There is, of course, also literature that focuses predominantly on root causes (e.g. Phillips, 2015; LeBaron et al., 2019). However, there is a dearth of research about conflict as a driver of modern slavery, especially notions of conflict that extend beyond war, as discussed in chapter three. The research in this title overcomes this flaw by looking at conflict as a start point of the development of vulnerabilities as opposed to using the end point of the experience of slavery as the focus.

In academic literature on modern slavery, intersectionality is rarely a key focus. Prominent exceptions are Yea (2015) and Strauss (2016) whose work respectively provides an overview of how intersectional identity markers can create a distinction between trafficked and non-trafficked persons, and insight into how social and political categorisation can lead to vulnerabilities. These examples focus on labour exploitation; however, most references to intersectionality relating to modern slavery refer to the sexual exploitation of women and notions of victimhood. Baker (2013) and Russell (2014) both consider intersectionality in reference to the usefulness of the victimhood placed on those who have experienced slavery in the form of sexual exploitation. Baker focuses on paternalism and rescue narratives, highlighting how the implication of the word ‘rescue’ inevitably implies that the ‘victims’ are passive and lacking agency. Russell mirrors this point with regards to the use of the term ‘victim’, and both authors indicate how this passive victim terminology clouds the other aspects of each individual’s identity, instead grouping all ‘victims’ as women with the same experience. These criticisms highlight how framing women in this way serves to overlook the vastly different constituent parts of their identities

and is a clear reflection of Crenshaw's criticism of white feminism (1989). Agency and the impact of victim terminology are issues discussed further in chapter seven.

To use intersectionality in the context of this research involves considering the intersecting identities of the respondents in order to understand what it was about their identities that led them to be discriminated against in such a way as to become victims of modern slavery. To consider the individuals in simple categories such as gender, race, ethnicity, or religion alone would be to consider only one aspect of their identities and therefore would overlook any other facet which may have also had an important impact on their experiences of inequality. It would also suggest that all those of the same broad category, women for example, would have similar experiences in leaving their conflict and would be just as likely to experience modern slavery as one another. As the findings from this research show, that is not the case. Eighteen of the victim stories accessed through interviews were those of women, all of whom had fled conflict, and yet some of them had experienced modern slavery while others had not. This exemplifies how considerations that focus only on how the vulnerabilities of being a woman might lead to modern slavery are flawed and, to truly understand the situations, analyses must delve much deeper than this.

Intersectionality encourages the researcher to take each individual and assess how different aspects of their identity intersect. A comparison can then be made between individuals with the same identity intersections to consider whether they had similar experiences. To take the example of women, from the interviews **Ifra** and **Mahal** were both women fleeing conflict and both experienced modern slavery. However, this does not mean that being a woman fleeing conflict necessarily makes someone vulnerable to modern slavery; intersectionality encourages such an analysis to be taken further to consider other aspects of an individual's identity that could cause them to be vulnerable. **Ifra** was a woman with a high-status job as a politician who fled conflict. **Louise's** mother was also a woman with a high-status job (a doctor) who also fled conflict; both these women experienced modern slavery. However, **Sakti** was a woman who had a high-status job (a surgeon) and fled conflict, yet she did not experience modern slavery. Again, this implies it would be invalid to claim that women with high-status jobs fleeing conflict are necessarily vulnerable to modern slavery. These examples highlight how important it is to recognise that correlation and cause are not the same. We might see a correlation between those fleeing conflict

and experiencing modern slavery, but without the combination of a motivated perpetrator, a suitable target, and a conducive environment, then the vulnerability caused by fleeing conflict will not always translate into a situation of modern slavery (Barlow, 2019). A person fleeing conflict is not necessarily going to be exploited, but their vulnerability to exploitation is increased due to the lack of a protective environment or support network, combined with the way that conflict reduces the options that are available to them.

It is clear from these examples how easy it could be to keep adding more aspects of identity into the comparison in order to identify precisely which intersections cause people to be most at risk of modern slavery. However, such comparisons would quickly reach saturation and lose comprehensibility. Ehrenreich (2002:267) refers to this issue as the 'infinite regress problem: the tendency of all identity groupings to split into ever-smaller subgroups, until there seems to be no hope of any coherent category other than the individual.' As discussed by McCall (2009), intersectionality can get caught between scale and coherence. This occurs when, in order to fully compare people's experiences, the intersections of multiple aspects of people's identities must be considered, but doing so can quickly lead to incoherence when those categories become so specific and include lengthy lists of constitutive categories of identity such as race, ethnicity, religion, class, age, gender, education level, etc.

It is not possible to identify which specific intersections might cause vulnerability in a small-scale research study such as this, as there is restricted potential for comparison. While a larger-scale qualitative study of the experiences of people who have fled conflict and suffered modern slavery may help overcome this issue of comparison, it would still struggle with the issue of scale versus coherence. This research suggests that it is not possible to generate specific enough categories that both incorporate all the intersections of a person's identity while keeping the intersections broad enough to make valid comparisons.

Even though inequality continues to be complex, the practicability of intersectionality can be limiting when considered in isolation. It faces the restrictions of being unable to provide both scale and coherence, and it overlooks the impact of external factors. To consider only the vulnerabilities established due to intersecting aspects of a person's identity is to overlook some of the significant differences experienced by members of the same groups in relation to context and structural dynamics. It is only by considering all these aspects together that a true understanding of any

one person's story can be fully grasped. This will mean that it will rarely be possible to make direct analytical comparisons between people's stories, because the likelihood that individuals will have the same intersecting aspects of identity and live through the same contexts and structural dynamics is extremely limited.

Conaghan (2009) argues that discussions of identity and experience should be mirrored with those of systems and processes in order to provide a balanced approach that does not overestimate the impact either of identity categories or of context or structural dynamics. She suggests that the aspects of identity and structure are inseparable and consideration must be given to them both. While the findings of this research support this to some extent (as is discussed further in chapter seven), it must be recognised that identity categories are influenced by structural issues. Hunter and de Simone (2009) argue that, in fact, it is more productive to concentrate on the context or structural dynamics of a situation than on identity categories (an idea corroborated by Cameron and Newman, 2008; and Blazek et al., 2018). Such standpoints claim that while aspects of people's identities may make them more susceptible than others to situations of modern slavery, it is the overarching structures of society that are most responsible for generating those vulnerabilities in the first instance. This is one of the key findings of this research, particularly in relation to the impact of conflict and of UK government systems in limiting choices and leaving people in situations where they must make risky decisions. The respondents who experienced modern slavery represented hugely different identity categories, but all suffered similar vulnerabilities generated by overarching structural contexts. It is therefore not possible to understand risks to modern slavery using intersectionality alone. There is no single or intersecting identity trait that is always responsible for increasing the likelihood that one person will become more vulnerable to modern slavery than another. Instead, it is the context of the situation that should be prioritised in order to identify risk.

As outlined in chapter four, conflict generates two specific vulnerabilities which increase the likelihood of a person experiencing modern slavery: reducing the options available to a person, and breaking down their support network. This chapter demonstrates that these vulnerabilities are not exclusively generated by conflicts and, in fact, there are policies in the UK that generate the same vulnerabilities and are responsible for increasing the risk that a person might become a victim of modern slavery.

6.2 The restrictive policies of the UK government

As noted in section 6.1, while advocating the importance of considering context and structural conditions alongside intersecting identities, it must also be recognised that intersectionality is contextual in the sense that inequalities caused by identity are often due to structural conditions. However, it is common that the identities of foreign nationals in the UK are overlooked. While migrants' identities are vastly different, ranging in age, gender, ethnicity, nationality, religion, and any other number of factors, once they have reached the UK they are regularly referred to as a homogenised group, as 'refugees', 'asylum seekers', or 'migrants'. This highlights the way that the UK's immigration system is essentially generating a new class of (non-) citizen (Sales, 2002). The focus here is on their identity after arriving in the UK, an identity which is limited purely to their migration status. While foreign victims of modern slavery who are identified in the UK are also commonly branded by their victim status as opposed to by their identities, when aspects of their identities are considered, they are usually in reference to their pre-exploitation selves: their levels of education or economic standing for example. In referring to these individuals' identities in this way, emphasis is placed on how vulnerabilities may have existed before their arrival in the UK, and attention is drawn away from the ways in which the UK government's systems generate new identities and contexts which encourage vulnerabilities and put people at risk of modern slavery.

The rest of this chapter investigates some of these UK contexts and how they can generate risk and thus questions how the UK government can claim that it holds modern slavery as a priority issue when it continues to perpetuate structural conditions which encourage exploitation. This section considers the specific modern slavery response in the UK and how there are still flaws in the system which continue to generate and exacerbate vulnerabilities.

6.2.1 The modern slavery response

This section outlines the current UK approach of identifying and supporting victims of modern slavery. It provides an overview of the National Referral Mechanism (NRM) and offers insights into how this has changed over time. While there was a brief interlude for two years where the modern

slavery decision-making process was not divided by the immigration status of the victim, there is a clear pattern indicating that the UK's response to modern slavery is heavily tied in with its anti-immigration stance.

Conflation of modern slavery and immigration crime

As mentioned in chapter three, across Europe there has been a significant focus on limiting immigration. The Freedom Fund notes how \$17 billion has been spent within Europe since 2014 (article published November 2016) on curbing immigration and asylum seeking. In the UK, this focus and money is placed on reducing the number of immigrants entering the UK as opposed to trying to identify and support those who have already entered; the government uses this approach to frame its anti-immigration efforts as a way of tackling human trafficking. As O'Connell Davidson and Howard (2015) outline, as newspapers report tragic events of migrant boats capsizing, politicians refer to them as victims of smugglers who are trafficking people across borders.

Although these claims are clearly incorrectly confusing smuggling and trafficking (both defined in section 2.1.2), approaching these situations in this way allows the politicians to suggest that migrants moving without the state's consent are putting themselves at risk of trafficking, and therefore, by limiting illegal immigration, the state is offering them protection. It could also go some way to explaining the government's tendency of conflating modern slavery with immigration crime. This conflation of modern slavery with immigration crime has become a focus of the UK government over recent years as can be seen from the development of the Modern Slavery Police Transformation Unit into the Modern Slavery and Organised Immigration Crime Unit, with the introduction of the 2022 Nationality and Borders Act (whereby an entire Part of the Act is dedicated to modern slavery), and with the very recent reclassification of modern slavery as an 'illegal immigration and asylum issue' where the brief has been removed from the minister responsible for safeguarding (Dugan, 2022). This re-framing is a simple way in which the government is able to exhibit its policies as paternalistic while it simultaneously fails to accept accountability for the ways in which its restrictive policies create the perfect environment for modern slavery to thrive among those who search for safety in the UK (O'Connell Davidson, 2013a, 2013b, 2016; Kidd et al., 2019) and who are too afraid to make themselves known to authorities because of the potential repercussions (discussed further in 6.2.2).

Focus on source countries

Perhaps this also goes some way to explaining the government's tendency to look elsewhere for the root causes of modern slavery while overlooking its own impact and failing to hold itself accountable (O'Connell Davidson and Howard, 2015). The UK government's focus surrounding modern slavery continues to be placed on structural issues in source countries as opposed to structural issues in the UK, as highlighted by the inaugural Independent Anti-Slavery Commissioner who stated that:

Truly effective prevention must start in countries of origin to prevent vulnerable people from being exploited in the first place. Often this will mean working in collaboration with international partners to develop effective and targeted prevention projects. (Independent Anti-Slavery Commissioner, 2018)

However, inspection of statistics suggests that this is misguided and much more emphasis should be placed instead on how environments in the UK encourage modern slavery. The NRM statistics provide information determining the numbers of people referred into the system who are believed to be potential victims who experienced modern slavery in the UK, in the UK and overseas, or overseas only. In 2021, 58 per cent of people referred into the NRM experienced modern slavery only in the UK, with a further 11 per cent experiencing it in both the UK and overseas (Home Office, 2022a). Further, UK nationals are repeatedly identified as the most common nationality of victims referred into the NRM, suggesting that efforts should be more significantly focused on how the UK presents conducive environments for modern slavery to occur.

This emphasises a serious flaw with the UK government's tendency to look to source countries as responsible for causing modern slavery when, in practice, the majority of victims identified in 2021 suffered their exploitation in the UK. To focus on source countries is to move attention away from the failings of the UK government when instead it should be held accountable for the vulnerabilities it causes. It also serves to allow the perpetuation of UK systems that create and encourage the environment for modern slavery to thrive.

If it is the case, as evidenced by respondents such as Ifra who did not know how to navigate the asylum system and who was provided no information in how to do so, that vulnerabilities towards modern slavery are

exacerbated by strict and confusing migration policies after arrival in the UK, then it is counter-intuitive for the UK government to state that tackling modern slavery is a priority (Hesketh and Balch, 2021) while simultaneously advocating a hostile environment for illegal immigrants. As Quirk asserts, these political agendas are not aligned (2015a) and, as O'Connell Davidson states, it is hollow for a government to claim it wants to lead the way in defeating modern slavery, when it encourages systems that deny large groups of people their basic rights.

[T]he liberal democratic states that are so eager to combat 'the scourge of modern slavery' in the form of THB [trafficking in human beings] are equally if not more enthusiastically engaged in depriving many groups of migrants of their freedom through (often for-profit) immigration detention, denying them basic rights, forcibly moving them across borders through deportation, and sustaining a flourishing industry in the prevention and control of human mobility. In other words, whilst seeking to suppress one form of traffic (THB) on grounds that it leads to restrictions on human freedom, liberal states sanction other forms of movement and trade, or traffic, that produce precisely the same effects. (O'Connell Davidson, 2016)

Gamba evidenced this situation in his interview. He described how, for him, travelling safely by aeroplane was a cheap route to the UK, but it was only available to him because he was able to get a visa to study. Without visas, his friends were having to pay four to five times more than him to a smuggler who would sail them across the Mediterranean. If they could not afford a smuggler, the only options available to them were to migrate on foot or stay in hiding in their home country for the rest of their lives. This affirms how strict government policies on immigration are directly pushing people into dangerous situations. It is not the case that these migrants are so desperate to get to the UK that they will risk the perilous journey, but that they are so desperate to survive that they know they must leave their home country by whatever means possible; yet it is often only the rich that can afford these life-risking journeys. If legal restrictions mean that they are unable to travel via safe means, then the only option left for them is to risk their lives with smugglers. Thus, by placing restrictions on the movement of people in dire need, governments are encouraging movement via unsafe means; movement that, without statutory support on arrival, could well result in situations of modern slavery.

The National Referral Mechanism

The National Referral Mechanism is the UK's system for identifying, counting, and offering support to victims of modern slavery and human trafficking. Although the NRM is flawed in many ways, it provides the most reliable non-estimated set of figures relating to modern slavery in the UK.

To be entered into the NRM, there is no rule as to where the reported exploitation must have taken place. This means that people who have fled a situation of slavery and come to the UK, people who have been enslaved along the journey, and people who have been victims of slavery in the UK are all, supposedly, granted the same protections.

The NRM is a two-step process whereby a specific list of first responders have the authority to complete an NRM form on behalf of a potential victim (reflecting the discussion regarding the conflation of modern slavery with immigration crime, it is insightful that the UK Border Force, Home Office Visas and Immigration, and Home Office Immigration Enforcement are all first responders and yet the National Health Service is not). The first responders refer the case on to one of two competent authorities which are part of the Home Office (discussed further later in this section). The competent authority then gathers all the information they can on the case in order to make a two-tiered decision as to whether the individual meets the criteria to be confirmed as a victim of modern slavery. Newly released Home Office guidance states that the competent authority has five days to make a Reasonable Grounds decision that there are 'reasonable grounds to believe, based on objective factors but falling short of conclusive proof' that the person referred is a potential victim of modern slavery (Home Office, 2023). Note that this guidance created a stricter threshold for Reasonable Grounds decisions where previously there was no call for objective factors and a potential victim's own testimony was sufficient. If the Reasonable Grounds decision is positive, then additional information is gathered on the case in order for the competent authority to make a Conclusive Grounds decision. This Conclusive Grounds decision states that 'on the balance of probabilities, there are sufficient grounds to decide that the individual being considered is a victim of modern slavery' (Home Office, 2023). Potential victims are entitled to a recovery period while this Conclusive Grounds decision is made. Previously the entitlement offered a minimum of a forty-five day recovery period. This has recently been reduced to a minimum of thirty days (Home Office, 2022c), but in reality the recovery period lasts as long as it takes to make the Conclusive Grounds decision, with the most recent NRM statistics showing that the mean length of time to

make a Conclusive Grounds decision was 666 days (Home Office, 2022b). The uncertainty experienced by potential victims of modern slavery during this period of waiting, reflecting the wait for an asylum decision as outlined in section 6.2.2, can negatively impact the physical and mental health of those waiting for a decision, and has been shown to worsen trauma (Heys et al., 2022). In situations of modern slavery, the victim reports that they have been a victim of a crime. They must then wait over a year and a half for their case to go through two stages of investigation in order to determine whether they are to be believed, and this is relating only to their own status as a victim—entirely separate from any criminal investigation that may be pursued against the perpetrator. It is not clear why victims of modern slavery are treated this way, with an air of testing and disbelief, when it is so different to the treatment of those presenting as victims of any other form of crime, but perhaps it allows us some insight into the government's stance regarding victims of modern slavery.

It is worth noting that since the NRM has existed, it has been based on this two-tier decision-making process, with 'expert decision-makers' employed to make the Reasonable and Conclusive Grounds decisions. Nevertheless in 2021, a legal case called into question both whether the decision-makers really have any level of expertise, and how detailed the investigations into cases of modern slavery for these decisions really are. *R v Brecani* was a 2021 case in which a seventeen-year-old boy was convicted of conspiracy to supply cocaine, a Class A drug, and sentenced to three years in detention. He raised the section 45 defence, which is a statutory defence written into the Modern Slavery Act for victims of modern slavery who commit a criminal offence because of their slavery experience. The defendant received a positive Conclusive Grounds decision while the trial was in progress, with the competent authority therefore acknowledging that he had been a victim of forced criminality. However, the prosecution gathered significant evidence from the appellant's phone which was not available to those making the Conclusive Grounds decision. This evidence appeared to undermine his claims of having been trafficked, indicating that, instead, he was a willing co-conspirator. As a result, the case held that a positive Conclusive Grounds decision is not admissible in evidence at a criminal court, because the decision is made by individuals who are not experts, and decisions may be made on partial evidence, as appeared to be the case here.

This is reflective of the comments made by the Crown Prosecution Service (CPS) in a previous case: *R v DS*, which stated that 'the evidential bar to be designated as a victim of modern slavery, often made before any

evidence is heard or tested, was a low one and can be untested, self-serving, and based on hearsay evidence' (Crown Prosecution Service, 2020). These cases highlight some of the flaws in the NRM decision-making process whereby the decisions are based on limited evidence.

As a result of *R v Brecani*, NRM decisions are still acceptable in court as a method of indicating that a person may have been a victim of modern slavery or human trafficking, but they are not deemed robust enough to be relied upon as *proof* of modern slavery or trafficking. In summary, it means that a Conclusive Grounds decision from the NRM is admissible in court, but is not weighted as expert evidence because of the flaws in the decision-making process highlighted by this case. These cases question how robust the NRM decision-making process actually is, and they bring to light the possibility that it may well be more difficult to find evidence around the case of a non-EU national than EU or UK nationals (simply because of the professional networks that are in place to gather such evidence) and it must be considered whether this impacts the likelihood of receiving a positive Conclusive Grounds decision.

Prior to 2019 there were two competent authorities that NRM referrals were sent to depending on the potential victim's immigration status: The National Crime Agency's Modern Slavery Human Trafficking Unit (MSHTU) and Home Office Visas and Immigration (UKVI). Perhaps it is unsurprising that of these two previous competent authorities, the MSHTU made decisions regarding any UK national or any European Economic Area (EEA) national without a live immigration issue, while any non-EEA national, or any EEA national with a live immigration issue would be referred to UKVI to make the Reasonable and Conclusive Grounds decisions. Perhaps equally unsurprising were the results of these decisions.

In the UK in 2018 (the last full calendar year that used these two competent authorities), there were 6,933 individuals referred into the NRM (National Crime Agency, 2019). In 2019, the National Crime Agency released an end-of-year summary to summarise the statistics from 2018; this included a data table that showed the case decision status at 12 March 2019 (National Crime Agency, 2019:79). Almost two thirds of referrals into the NRM in 2018 were for non-EU nationals, while 36 per cent were EU or UK nationals (4,506 and 2,483 respectively). Yet EU and UK victims were almost six times more likely to receive a positive Conclusive Grounds decision than their non-EU counterparts (35 per cent and 6 per cent respectively).

This is not necessarily to say that the remaining 65 per cent and 94 per cent received negative Conclusive Grounds decisions, as some will have

been withdrawn, received negative Reasonable Grounds decisions, or the decision may still have been pending; however, it is still indicative of a bias. In 2014, the Anti-Trafficking Monitoring Group published a five-year review of the NRM which identified that the percentage of positive Conclusive Grounds decisions made for British and EU/EEA nationals was 80 per cent whereas for those with a live immigration case it was less than 20 per cent (Anti-Trafficking Monitoring Group, 2014) therefore indicating a significant bias within the system. Rhys Jones (2013) draws attention to another interesting fact that, from 2009 when the NRM was established, until 2013 when his article was published, every judicial review conducted regarding NRM decisions was in reference to a decision made by the Border Agency (later replaced by UKVI as a competent authority) regarding potential victims with a live immigration issue; none were made against the other competent authority whose decisions did not concern those with live immigration cases. This emphasises, again, bias and poorly formed decisions against non-EU citizens, and implies that immigration status was prioritised without thorough attention being paid to the reported modern slavery experiences.

Considering the vast differences between positive Conclusive Grounds decisions for EU nationals set against non-EU nationals, it is not a big leap to suggest that the drive to curb immigration and the unlikelihood of receiving a positive Conclusive Grounds decision as a non-EU citizen were linked. It is clear then that the government's priorities of tackling modern slavery and reducing immigration are incompatible (O'Connell Davidson, 2013a).

When UKVI was responsible for making Reasonable and Conclusive Grounds decisions for potential victims of modern slavery with live immigration issues, but was also responsible for the UK's visa system, there is an undeniable conflict of interests and the vast difference in decision outcomes is arguably a result of this. These issues have been raised previously to the formation of UKVI, when the UK Border Agency was responsible for making Conclusive Grounds decisions and it was identified that '[n]ational efforts to fight trafficking are undermined by requiring a potential victim to describe their personal situation to the agency who may at the same time be considering their immigration status' (Rhys Jones, 2013). Equally, any immigration offence was likely to be considered a priority over the fact that the person was a victim of a crime.

In 2019, the Home Office changed this segregated decision-making process so that all decisions, regardless of the immigration status of the

potential victim, were made by the newly formed Single Competent Authority. This indicated a move forward, away from the misguided blurring of lines between immigration and modern slavery. However, despite the fact that NRM data sets are made publicly available at the end of every calendar year, the publications tend to include different sets of data, making it impossible to use direct annual comparisons to see the impact that this change has made. The breakdown of statistics by whether potential victims are EU or non-EU nationals is one such data set which is not comparable over time. In 2021, for example, we know that 12,727 potential victims were referred into the NRM (Home Office, 2022a), but information is not provided as to how many of these were EU nationals, or what the outcome of decisions by immigration status was, which makes it difficult to see whether the change to a Single Competent Authority helped to overcome some of the biases outlined here.

While the move to a Single Competent Authority was widely celebrated in marking a move away from focusing on immigration status over victimhood, it was short lived. Just two years later, in 2021, the Home Office, without consultation, created a new competent authority: the Immigration Enforcement Competent Authority, which sits alongside the now confusingly-named Single Competent Authority. The Immigration Enforcement Competent Authority's remit is to make NRM decisions for 'many adults who are subject to forms of immigration control, including any adults in respect of whom deportation is being pursued and those who are held in administrative immigration detention' (FLEX, 2021). There was very little warning about the introduction of this new competent authority and Detention Taskforce took the lead in producing a letter signed by over thirty organisations to call upon the Home Office to reverse the introduction of the Immigration Enforcement Competent Authority, stating that its introduction 'is a retrograde step returning us to a discriminatory two-tier system, in which many victims of modern slavery in the UK who lack secure immigration status will not be appropriately identified, protected or supported, and will therefore fear coming forward to the authorities to seek help' (FLEX, 2021).

Impact of decision-making

The likelihood of receiving a negative Conclusive Grounds decision could also have a detrimental impact on encouraging other victims of modern slavery to consent to referral into the NRM. If they become aware of people who have lived through a situation similar to their own, but who

have received a negative decision and who, without referral into the NRM, would not have come to the attention of the authorities, then it is evident why some victims may choose not to make their situation known. This wish to remain hidden is surely only further strengthened by the obvious discrimination that faces immigrants (Parker, 2015). Especially for those who have fled a dangerous situation, if they believe that making their story known holds the potential to result in their detention or repatriation, then it may be in their best interests to try and remain hidden from the authorities.

Further, it can be argued that there is limited benefit to any victim of modern slavery being referred through the NRM. Although there is an offer of safe housing with support while the Conclusive Grounds decision is being made, it is common that these decisions take an inordinate length of time, with the most recent statistics showing the mean length of decision-making times sitting at 666 days (Home Office, 2022b). While at the outset this may appear beneficial—a long time in safe accommodation—those in the NRM are made aware that, should they receive a negative decision, they have nine days to exit the safe house, regardless of how long they have been there. Up until the beginning of 2021, a positive Conclusive Grounds decision offered similarly limited support with the requirement of leaving the supported accommodation two weeks after receiving the positive decision. In these circumstances, regardless of whether individuals were receiving positive or negative decisions, they were living on the edge, aware that they may suddenly have to pack up their lives and move on. The extended waiting times have a negative impact on both physical and mental health (Heys et al., 2022). The waiting also limits how settled a person is able to become in this accommodation and reduces the likelihood that they will want to learn about the local area or invest in friendships. In these situations, it could reasonably be considered that individuals could believe they would have been better off if they had circumnavigated the system and avoided the NRM; if they had been able to find work and accommodation through others then they may indeed have had better security than that offered through the NRM. However, as discussed in chapter four and in section 6.2.2, turning to other people for assistance in finding work is a key method through which someone can become trapped in a situation of modern slavery.

Frustratingly, despite recognising a person's vulnerabilities, a positive Conclusive Grounds decision through the NRM does not put a person in priority need for housing. The UK Housing Act 1996 states that:

- (1) The following have a priority need for accommodation—
 - (a) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
 - (b) a person with whom dependent children reside or might reasonably be expected to reside;
 - (c) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;
 - (d) a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster.
 - (e) a person who is homeless as a result of that person being a victim of domestic abuse.

Some advocates have successfully argued the case for victims with a positive Conclusive Grounds decision to be considered in priority need of accommodation under section c: for some ‘other special reason’. However, without such priority being explicitly stated in the Housing Act, this is not a guarantee, and without an advocate who knows the system on hand to support the victim through the housing application process, it is unlikely that they would be successful. This would leave them homeless and, ironically, at increased risk of modern slavery as they seek work and accommodation through strangers they meet on the street.

Similarly, a positive Conclusive Grounds decision does not automatically grant the recipient discretionary leave to remain (DLR); the Home Office is simply required to *consider* whether people with such a decision should be granted DLR. This is an issue picked up by Burland (2017) who noted of the 2016 NRM statistics, that:

Only 384 of the 2563 people who received a positive CG [Conclusive Grounds decision] in 2014, 2015 and 2016 were granted discretionary leave to remain in the UK. This statistical evidence is not found in the NRM data, but it highlights the limited value of a positive CG and the reality of the UK’s short- term and limited response to its support for trafficked persons.

So then, through the UK’s NRM, if a person who has been a victim of modern slavery in the UK must live precariously as they wait months to receive a Conclusive Grounds decision which is then not guaranteed to benefit

them, we must ask whether the government's claim that tackling modern slavery is a priority really stands up to scrutiny. We should also consider that many may view circumnavigating the NRM as a more likely means to be able to start living their lives with immediate support from friends, acquaintances, and strangers as opposed to limited (if any) support, with no specified timeline, if they choose to wait for help from the government.

Positively, from the beginning of 2021, the system of support offered by the NRM has changed through the Modern Slavery Victim Care and Coordination Contract (MSVCC). The MSVCC has introduced a Recovery Needs Assessment which offers follow-on support to victims of modern slavery who received a positive Conclusive Grounds decision through the NRM on, or after the 4 January 2021. It offers a 'reach-in' service for at least forty-five calendar days, which:

is designed to keep a survivor's transition to independence on track if they have any emerging or reactive requirements for support or advice. It can include links to activities and places where they can get help including finding a job, counselling and other therapies, ESOL classes and translation services. (The Salvation Army, 2021)

This is a significant improvement from what was previously termed as the 'cliff edge' that victims experienced as they received a positive Conclusive Grounds decision and their support simultaneously abruptly ended. Although this is certainly a progressive step forward, there have already been issues identified, for example, how British nationals are often missing out on the support offered by the new contract (Heys et al., 2022).

6.2.2 The asylum system

While section 6.2.1 considered the specific response to modern slavery in the UK, this section builds upon some of the concerns raised and considers the asylum system and how it generates an environment which is conducive to encouraging modern slavery.

In the UK, public tension surrounding migration has increased in correlation with both the rise in immigration itself, as well as the increasingly uninformed and uninhibited political discussions on the subject (Crawley, 2006). While those in the asylum system are provided with £40.85 per week on which to live, the treatment of asylum seekers in the UK is increasingly

punitive, with the prohibition on working, the dispersal of refugees, and an increase in detention (Vickers, 2015).

A person cannot claim asylum in the UK until they have arrived at the border, and there are no safe, legal, guaranteed ways to do this. As such, many often experience long and dangerous journeys in the hope that they will be granted asylum upon application. However, while those who seek asylum may receive a cash stipend and a bed while they wait for the outcome of their decision, they receive little other support or advice, and once asylum has been granted, little changes. Once granted asylum, they have their weekly stipend stopped and may have to leave their accommodation. While they are then entitled to apply for welfare benefits or seek employment, they have no support worker to advise them through these processes. The government has identified such refugees as vulnerable enough to warrant asylum yet does not offer support to ensure that those vulnerabilities do not result in the exploitation of people left unassisted in a country that they do not know. There is clearly a risk that these people will be vulnerable to offers that may transpire to be situations of slavery when they are left in such a position of uncertainty. They must find a way to support themselves but may not know where to go to find out their entitlements or to apply for legitimate employment, and they may be too afraid of repatriation to seek assistance. As such, offers of cash-in-hand work or a place to stay may be tempting, but may equally be an entry into exploitation. However, it is also important to note that by failing to take accountability and offer support to refugees, the government not only allows them to live at risk of exploitation but is depriving itself of the social and monetary input that the refugees would provide if they had support in settling quickly into the community. If asylum seekers were permitted to work, this would benefit the UK economy by an estimated £97.8 million each year (Lift the Ban, no date).

The asylum system was discussed in detail by several respondents involved in this research. This section investigates these findings and discusses how the asylum system can generate risk; this is discussed particularly in terms of the vulnerabilities that can be generated through the lack of clarity on how the system works, the long waiting times for decisions to be made, and the impact that a lack of effective communication and support can have on those in the system.

Lack of clarity

Contrary to the assumption that all immigrants come to the UK because they think 'the streets are paved with gold' and the welfare state is an

enticing opportunity (May and Cazeneuve, 2015), there were respondents who simply did not know about the asylum system, and the lack of clarity about the system caused them to become vulnerable.

Catherine arrived in the UK ‘illegally’ after escaping a trafficking situation in Albania and, knowing nothing about the asylum system: what it was, how to claim, or how it might assist her, she found casual work and accommodation in the UK. However, upon hearing about the asylum system, she applied straight away, but her delay in applying counted against her and her claim was denied. This is an issue that has been identified in wider research, whereby a delay in accessing support has been seen to undermine the credibility of those making a claim for asylum (Lewis et al., 2013). For **Catherine**, a lack of information on the asylum system when she arrived in the UK directly affected her chances of getting a positive decision. If she had access to this information when she arrived in the country, she would have begun the application process immediately; instead **Catherine** is on her third application and has been waiting six years to be granted asylum.

Ifra’s story highlights how a lack of knowledge of the asylum system can actually encourage a situation of modern slavery. Having fled Bangladesh after her political opponents threatened to have her killed, **Ifra** moved to the UK and found work. After her working visa expired, the job centre informed her they were no longer able to support her. She left the job centre unaware of any agencies that could support her, or of the asylum system, despite the fact that she was an ideal candidate due to the risk to her life should she return to Bangladesh. This resulted in her turning to strangers to look for support and accepting an offer of work from a stranger that transpired to be a situation of modern slavery that lasted for three years.

If people in situations such as **Ifra**’s and **Catherine**’s were to be made aware of the asylum system on their arrival to the UK, even if arriving with a visa, their vulnerabilities could be drastically reduced. It is also fundamental that statutory organisations interacting with individuals who may not know about, but may be in a position to apply for, asylum accept a degree of accountability for at least signposting such individuals to organisations that may be able to offer them support and advice. Had **Ifra** received such advice it is unlikely that she would have turned to strangers for help and found herself in such extreme exploitation where she was held for three years.

These examples show that clear information on who should apply for asylum, how the process works, and why they need to apply is not successfully reaching those who would benefit from such material. They illustrate

how, without clear information being provided on the asylum process, those who continue to be unaware are at an immediate disadvantage, be that in regard to the likelihood that their asylum claim will be accepted, or in the potential that a lack of knowledge of the asylum system could lead to modern slavery.

There are, of course, practical issues that prevent such information being made directly available to this hard-to-reach group. Primarily, if people are entering the UK by circumnavigating border checkpoints and statutory authorities, then there is no easy route to make sure this information reaches them. However, that is not to say that providing such information is impossible, simply that more onerous methods must be considered (discussed further in chapter eight).

However, this lack of clarity around the asylum system is something not only experienced by those unaware of the mechanism, but even by those who are successfully granted asylum. *Oscar* applied for asylum in the UK after fleeing conflict in Gaza. He described how he was granted asylum, and how he was given the documentation and then told ‘just go’. *Oscar* speaks English fluently but was provided no information on what the next step was for him, what he was entitled to, or where to go for information or support. As a result of this, he quickly found himself homeless. While homelessness has been well researched as a vulnerability that can increase a person’s likelihood of experiencing modern slavery (see for example *The Passage*, 2017; Kassaw, 2019; Avis, 2020; Jagpal et al., 2020; Murphy, 2020), *Oscar* was lucky to have been supported by a stranger who explained that he needed to apply for housing with a council. If he had been informed of this upon receiving asylum, he would have been able to go straight to the council offices and apply for housing instead of spending so long homeless. Because he was offered no information with his documentation from the Home Office, without this intervention from a stranger, *Oscar* would have remained unemployed and homeless even though the Home Office had recognised him as a refugee and granted him asylum.

Environment of distrust

The immigration system generates an environment of distrust as is evidenced by the Windrush scandal, where people who had every right to be in the UK were being told they must leave the country. With such issues facing those with legal status becoming public, those who are in the UK illegally would likely, rightly, identify themselves as in a very vulnerable position. If those in the UK legally are being told they must leave, then ‘illegal’

immigrants are faced with little hope (Bulman, 2018a). Such an environment generates distrust and fear which makes asylum seekers reticent to provide accurate accounts to authorities, or to lie because they are reluctant to tell their sensitive stories of hardship to people who have a vested interest in repatriating them (Herlihy and Turner, 2006; Stepnitz, 2012). Further, with a predisposed unlikeliness of receiving a positive Conclusive Grounds decision simply because they are not from the EU, victims of slavery who fit this category may automatically be discouraged from applying to the NRM for support.

This distrust was highlighted repeatedly by respondents who discussed how the lack of clarity on the reasons for some of the probing questions, plus the fear of repatriation, meant that they were guarded in disclosing their personal and traumatic stories to those they believed were inclined to repatriate them to countries they felt terrified to return to. A number of the respondents described how they had lied in their initial asylum claims. Some explained that they were simply unable to remember or got confused over some of their answers. For example, **Catherine's** claims have been rejected twice as they are considered unreliable, but she suffers severe Post-Traumatic Stress Disorder (PTSD) because of her slavery experience and this is widely acknowledged to impact upon memory (Nejati et al., 2018). Others admitted to lying or altering facts because they were fearful of the authorities making the decisions, or because they wanted maximise the likelihood of a positive decision because of their fear of being repatriated.

Fredrika recalled how her main reason for wanting to claim asylum in the UK was because she was homosexual and feared being killed or imprisoned because of her sexuality if she returned to Uganda. However, because of the hostile reactions of her family to her telling them that she was homosexual, she was extremely reluctant to disclose this information to a stranger in the asylum interview, not knowing if their response would reflect that of her family's. As a result, without the disclosure of her sexuality, her claim did not have enough merit to warrant a positive decision, and **Fredrika** was denied asylum.

Isaac lied in his asylum claim. He had no knowledge of the asylum process or what was expected of him, but his desperation to stay in the UK where his child and younger sister were meant that he felt extreme pressure to provide a version of events most likely to lead to a positive decision. However, immigration agencies are under pressure to reduce immigration and, as such, decisions may err on the side of the negative and discrepancies in a person's story will likely encourage a negative decision, as was the

case for **Isaac** when it was discovered that he had not told the truth. The lack of clarity around the asylum system was exacerbated for **Isaac** after he was detained by immigration officials. He was detained and released without being given any information as to why he had been detained. This clearly caused him a great deal of distress, but also led to a lack of trust in the authorities. Their inability to communicate with him on the issues surrounding his detention, or to take accountability for his welfare, made him reluctant to engage or put his trust in organisations of authority going forward, and reticence to open up to authorities is often construed as an attempt at deceit (Herlihy and Turner, 2006).

This reluctance to engage with officials in authority was further exemplified by both **Catherine** and **Nadia**. Before applying for asylum in the UK, **Catherine** had been exploited by police and government officials in Albania, and **Nadia** had been raped by a police officer in Italy. The lack of clarity they were offered around how the asylum system works meant that they feared their disclosures making it back to those who had mistreated them. As such they were disinclined to disclose the truth for fear of who else would hear of their stories and the potential retribution as a result.

These examples indicate how fear and distrust of authorities can lead asylum seekers to lie or withhold information during their claims. The result of this is that their claim is likely to be rejected and their support will end, as was the case for **Fredrika** and **Isaac** after officials had discovered flaws in their disclosures. However, neither were willing to give up and would have taken the risk of being homeless and destitute in the UK rather than risking their lives by returning to their home countries. **Gamba** had a similar experience and described how he felt the asylum system was there to try and find discrepancies in applicants' accounts. His initial asylum claim had been rejected but he had reapplied in the knowledge that he would be killed if he returned to Cameroon where he was wanted for his political activism, the same reason that his father had been murdered. **Fredrika** and **Gamba** both became homeless and destitute after the government ended their support; however, they were both fortunate to receive assistance from charities, which undoubtedly reduced their vulnerabilities. While, at the time of our interviews, they were living in precarious situations, they had both opened new claims for asylum because they were of the strong belief that they would be killed should they return 'home'.

Such examples demonstrate how the lack of clarity provided to claimants as to the necessity for honesty in their claims, coupled with the environment of distrust generated by the hostile immigration environment,

can encourage people to avoid authorities, withhold information, or lie during their asylum claims. However, this is likely to lead to the applicants receiving a negative decision which can result in destitution for those who are simply too fearful to return to their home country. At this point, asylum seekers become vulnerable to offers of illegitimate and potentially exploitative labour as a method of survival.

As such, clarification is necessary for those undertaking asylum interviews on the reasons that asylum seekers may withhold the truth. However, clarification on the asylum system, the reasons for the interviews, and all the potential outcomes should also be provided to those applying in order to emphasise to them the importance of providing truthful accounts.

Psychological impact

The fear of repatriation outlined in the previous section is a constant threat for asylum seekers and can have a significantly detrimental impact on their mental health. An 'illegal' status can permeate every aspect of a migrant's life as the threat of detention becomes a constant source of fear and anxiety (Sigona, 2012).

Isaac indicated how the asylum system detrimentally impacted him as he was taken in and out of detention with no explanation as to why, and continued to wait for a decision on his asylum application while being forbidden from getting work or an education. This point is emphasised by Thibos and Topouzova (2017:no pagination) who state that:

[t]he threat of being caught in these nets [detention], and the dire consequences that can result from doing so, are one of the main reasons why many remain at risk in countries of transit and destination.

The fear of repatriation is an issue that was highlighted in multiple interviews. Although several respondents mentioned that they would love to return home if it was safe to do so, many described how returning home is simply not an option for them because of the risks associated with their return. A number of respondents were certain that, should they return to their home countries, they would be killed. Waiting on the outcome of their asylum claim then generated high levels of stress as, to them, the result was not simply whether or not they would be granted rights to remain in the UK, but was potentially a genuine life or death decision.

At the time of our interview, **Fredrika** had been in the asylum system for four years and, as a homosexual woman, fears being returned to Uganda

where she is certain she would be arrested, if not killed, because of her sexuality. Her life centres around waiting for the outcome of her asylum application and she has been unable to pursue much of a life during the long waiting times. For her, her entire future rests on the result of this decision, and this has significantly impacted her mental health. She has struggled to make friends in the UK, stating that she prefers to be alone, and that being destitute makes it very difficult to maintain any type of relationship, because asylum seekers are unable to afford to go anywhere and have no home to invite friends into.

If you were in my situation, you don't even think about meeting people. When people meet you have to go somewhere, have a cup of coffee. But if you don't even get £10. I get £10 from a charity organisation for a week. How am I going to start to afford bringing people to my ... I don't know, it's hard.

Fredrika described how once she starts to think about her emotions, she can quickly spiral into despair as she worries about her future, not knowing if she will be permitted to stay, get a job, and resume a normal life or if she will be returned to Uganda where she is fearful that she would be arrested or killed.

You can't work. You just can't do anything. You basically go through phases and things that you'd never experience. You get depressed. Becoming suicidal, which has happened to me about three times. And then you start thinking about your sexuality, and then you start thinking oh what's going to happen tomorrow. Because when you go to sign at [name of office], you might or you might not come back. I sign every two weeks on a Monday and even the sign in sheet says you're liable to detention, so you might not come back. What kind of life is that?

Similarly, **Catherine's** experience of being sexually exploited by government officials in Albania has left her living in constant fear of being returned to Albania. She felt that if she were to be repatriated, she would quickly be found by those who exploited her and, as such, can think about little else other than receiving her asylum decision. **Catherine's** case-worker discussed how distressing life is for her while she waits for her asylum decision to the point where everyday situations cause her severe anguish.

To give you an example, I got an envelope out with something in one day to give her and she thought it was from the Home Office to deport her. That was how ... anything that's in a brown envelope ... so now I make sure that I keep it outside of the envelope before. But when the post comes to the door it's a real trigger for her.

This is a topic that has been dissected by Darling, whose research considers the ways that the UK government, by using letters, generates a unique bond between itself and asylum seekers. 'Letters are considered as things that hold the capacity to move individuals in affective and interpersonal ways' (Darling, 2014:486). They are documents which may be formal, but are often read in an informal space, thereby allowing the government to infiltrate a space in an asylum seeker's life that would not ordinarily be accessible to them.

When asked about how a negative asylum decision might affect Catherine, her caseworker voiced her concern.

I think her risk would increase ... massively. I think she might run away. I would also worry about her risk. I think she could be pushed to a state where she'd rather she died than went back to Albania.

Catherine's story highlights the sense of limbo created by the asylum process as people wait for their decisions and are unable to work or access education. Knowing that she cannot return safely to Albania but having to wait to find out if she will be supported to stay in the UK has caused her severe anguish as her life remains on hold. At the time of my interview with her caseworker, Catherine was in her sixth year of waiting for a decision, meaning that she has been unable to settle or integrate for a significant length of time and, as her status is her priority, has been unable to deal with any of the traumatic effects caused by her experiences.

I mean she has constant nightmares. She couldn't sleep at all when I saw her ... She's hyperactive ... She's really thin, really suffering chronically with PTSD isn't she. Her stress is very high and she's very tearful every time I see her.

Catherine and Fredrika's experiences of the asylum system had a hugely negative impact on their mental health. Both women fear being repatriated

and expect that there would be severe repercussions if they were to return 'home', yet they have no influence over the outcome of their asylum decisions. Though the asylum system may not have made them immediately vulnerable to situations of modern slavery, their fear of repatriation means that, should they continue to be denied asylum, there is every chance they will attempt to stay in the UK, searching for illegitimate work to survive in the hope of avoiding being returned to their home countries. In attempting to remain undetected by authorities, any labour they find will be unregulated, therefore increasing the likelihood that it will be, or become, exploitative.

Fredrika mentioned how she tries to think about her future positively, but her feelings oscillate when she is faced with such uncertainty.

I just hope for the best. I'm being optimistic, but there's a thin line in between being optimistic and then going down rapidly ... Yeah, like today, I'll be feeling very optimistic. Tomorrow I'll be something different. Completely something different.

This sense of despair was highlighted by **Gamba** when he was asked to think about his hopes for the future. He has been in the asylum system for six years and fears being repatriated as he knows several people from his political group have been killed for their activism. Although he wants to complete his university degree and be able to lead a 'normal' life, **Gamba** struggles to allow himself to think about the future because of the complexities caused by hoping.

Hope is a very good thing for people to have, but when you hope, especially in my situation, if things don't happen you just get depressed. So most of the time you take it a day at a time and try not to dream. Just accept it.

The uncertainty makes it difficult for anyone to remain positive and some respondents simply did not want to talk about their futures because they found the topic so unsettling. This was particularly true of **Isaac** who has had an asylum claim rejected after it was discovered that he lied in his interview. He has a son who was born in the UK, his sister is in the UK, his mother has died, and he has no information on the location of his father or whether he is even still alive. He is originally from the Democratic Republic of the Congo, but has very few memories of living there and has

no contact with anyone there. **Isaac** fears being repatriated to a country he does not know and having to leave his son and young sister in the UK. For these reasons, he prefers not to think about the future and takes each day at a time.

INTERVIEWER: So what do you hope for your future?

ISAAC: Do I have to say?

INTERVIEWER: You don't have to say anything you don't want to say, it's fine and we can move on if you don't want to talk about that.

ISAAC: Maybe move on.

At the time of our interviews, **Fredrika**, **Gamba**, and **Isaac** were all still waiting for the outcomes of their asylum claims. For them, the asylum system has constituted a removal of agency whereby they have no control over their futures. They must wait for the government to make the decision as to whether they will be granted asylum, and their only alternative options would be to voluntarily return home or try to find a way to survive in the UK by illegally seeking work without being identified by the authorities, a risk that would increase any vulnerabilities towards experiencing modern slavery. This has left these respondents in a state of uncertainty while they wait to receive the results of their asylum decision. During this time, they are unable to make any plans for their futures, not knowing how long they will have to wait, or where they will live once they get the results. This prevents asylum seekers from being able to deal with any mental health issues they are already facing, as demonstrated by **Catherine**, yet it also serves to further impact on applicants' mental health. It prevents asylum seekers from wanting to, or even being able to, integrate into their current society, therefore running the risk of creating societal divides. However, this distress regarding thoughts of the future is not limited to those who are still in the asylum process; some respondents who have been granted asylum still feel this way when thinking about their futures.

Hasim fled Uganda for political reasons and had been in the UK for seven years at the point of our interview. He was granted asylum in the UK, but his family are still in Uganda and, although they are safe now, he never knows how long that will last. Worrying about his family was an added stress on top of the difficulties associated with claiming asylum in the UK. 'The asylum system is hard. Finding opportunities, jobs is hard. It's a struggle. Life is challenging. It's not easy.'

Despite the fact that **Hasim** has been granted asylum and had been in the UK for seven years at the time of my interview with him, he still finds it difficult to contemplate his future.

I use religion as a way of building hope [however] ... I don't want to be really ambitious and hopeful. It's hard, you cannot hope for your future in a different world. I would easily answer that question in my own country but how do you answer when you're not in your own country? It becomes hard to see yourself where you want to see yourself with that future.... To ask what you hope for your future is a hard question.

The future **Hasim** has now is not one he had ever considered before he had to flee Uganda. He still sees Uganda as his home and he would love to return there, but knows he is unable to because he would be at risk. This makes it difficult for him to think about his future, because the future he wants for himself is not available to him.

This example of a refugee in the UK who has been granted asylum, lives in safety, and has a successful job that he enjoys, yet who continues to feel distress about his future and when thinking of his family reinforces the fact that not all asylum seekers are economic migrants who see the UK as 'paved with gold' as the media often seems to claim (May and Cazeneuve, 2015). **Hasim's** experience emphasises how unsettled life can feel even after being granted leave to remain and that a lucrative life in the UK is still, for many, less desirable than their previous lives in their home countries.

Surviving the asylum system

As discussed in the previous sections, there are many reasons why those seeking asylum may turn to strangers for support or look for illegitimate labour when they have a distrust of authorities, are afraid of repatriation, or are unsure of how to navigate the system. However, a prominent finding from a two-year research project exploring the experiences of thirty asylum seekers in England discovered that forms of extremely exploitative and forced labour were commonly simply unavoidable for refugees and asylum seekers because government provisions (currently £40.85 per week) were simply not enough to meet their basic needs (Lewis et al., 2013; Dwyer et al., 2016). Even in situations where people entered into and managed to escape such labour exploitation, they found that their restricted legal positions as refugees or asylum seekers would leave them little option but to return to such dubious labour. This research concluded that:

[t]ackling forced labour among refugees and asylum seekers requires a major overhaul of government policy to restore asylum seekers' right to work and to ensure universal access to basic employment rights irrespective of immigration status. (Lewis et al., 2013)

As such, a hostile environment towards migrants cannot work to decrease the vulnerability of asylum seekers and refugees to forced labour. This means that the government cannot simultaneously claim to prioritise tackling modern slavery *and* continue its hostile environment towards immigrants. If it is to continue the hostile environment, then it must accept accountability for encouraging the conditions necessary for modern slavery to thrive.

Highlighting the struggle to meet basic needs identified by Lewis et al.'s report (2013), **Gamba**, **Isaac**, **Fredrika**, and **Hasim** all emphasised in their interviews how they relied wholeheartedly on the support of charities and drop-in centres to be able to survive as they waited for the outcome of their asylum decisions, and some even lived with volunteers that they had met via the drop-in centres. Although she has reapplied for asylum, **Fredrika**'s initial claim was denied and she then experienced the forced destitution suffered by so many rejected by the asylum system. Because she strongly believes her life is at risk should she return to Uganda, **Fredrika** has 'chosen' to remain destitute in the UK while she reapplies for asylum. This reflects De Genova's (2002) work on the 'deportability' of asylum seekers whereby the asylum system generates a palpable notion that asylum seekers could be sent 'home' at any time. When being returned to your home country equates to a potential death sentence, this threat understandably generates a constant sense of extreme fear.

Literature indicates that this is a common story, and that by forcing refused asylum seekers into destitution, the UK government fails to accept any degree of accountability for these people, completely overlooking the particular vulnerabilities faced by those, such as **Fredrika** who are unable or unwilling to leave the UK (Lewis et al., 2013; Lewis and Waite, 2015; Dwyer et al., 2016). In such a position where the option of returning 'home' is not a possibility, and the right to work in the UK has been denied, research shows that refused asylum seekers are at real risk of exploitation.

Destitution, resulting from lacking the right to work or access to any government support or benefits, was the primary driver into exploitative

work for irregular migrants and refused asylum seekers in our study (Lewis and Waite, 2015:58).

The study referred to involved research with thirty participants, seventeen of whom were asylum seekers on arrival to the UK. Of those seventeen, fourteen entered the labour market after being refused asylum left them with no support and no right to work (*ibid.*). When left in such a precarious situation, these people become particularly vulnerable to exploitative labour. They have no government-supported housing or stipend and, if they are to remain in the UK, must find a way to survive. This will often mean there is little choice other than to enter the labour market. However, with no legal right to work, they are restricted to approaching employers who are willing to illegally employ a refused asylum seeker. Such employers have the opportunity to take advantage of this extreme misbalance in power; knowing that the worker has no legal access to the labour market, they have the possibility to enforce poor working conditions, long hours, and low pay in the knowledge that the worker has little choice but to accept (Dwyer et al., 2016). Workers that challenge such conditions are simply reminded that they have no other option but to accept the situation (Waite, 2017) and that there will always be someone else willing to take their place (Dwyer et al., 2016). To report their working conditions to the authorities will simply result in their own penalisation for working with no legal right to do so (Lewis et al., 2013; Dwyer et al., 2016).

This lack of statutory support and its resulting impact on mental health was an issue raised in several of my interviews with asylum seekers. Similarly to the impact of conflict discussed in chapter four, the asylum system reduces the options available to its applicants, prohibiting the majority from accessing employment or education, and stipulating the location in which they must live. This lack of freedom, coupled with the uncertainty of knowing when a decision will be made or whether it will be positive, can lead to feelings of hopelessness and despair. This is especially true for those who fear for their lives should they be repatriated; for them, a negative outcome of an asylum decision could equate to a death sentence. The uncertainty caused by the asylum system also prevents asylum seekers from trying to integrate; they have no money to socialise and are reluctant to form relationships or to try to settle in an area when they are unsure of how long they will be permitted to stay. This can generate feelings of isolation, and some respondents discussed experiencing suicidal feelings as a result. This negative impact on mental health as a result of the asylum system,

and particularly for those denied their claim, is highlighted in the literature (Dwyer et al., 2016). It is evident then that a lack of communication only increases what is already a highly stressful situation.

These examples emphasise how a lack of appropriate support may encourage asylum seekers to pursue other methods of survival, such as looking for work, which would breach the rules of the asylum system for most asylum seekers and which would leave them with no protection should this work be, or become, exploitative (Dwyer et al., 2016; Waite, 2017). Such lack of support may also actually serve to discourage people from engaging with the system. As such, the hostile environment is likely to push people away from engaging with the authorities and into more long-term, illegal, and precarious situations. Further, the length of time that people must wait for an asylum decision essentially means that their lives must be put on hold; they cannot access education or find employment. For **Catherine**, this meant that she felt unable to address her PTSD because her entire focus was on waiting for the outcome of the asylum decision. Although the government suggests that decisions should be reached within six months, this is not always the case, and the longer the wait, the longer asylum seekers live in the UK unable to contribute financially and unable to actively integrate into society (d'Albis et al., 2018).

Hasim described in his interview how, as an asylum seeker, he believed that all his problems would be solved as soon as an asylum decision was reached. Yet, upon being granted asylum, he remained in a vulnerable position because he was unaware of how to apply for housing or employment. His experience was similar to **Oscar**, who received a positive decision and then was told to take his papers and go. He was given no information on where to go or of organisations that may be able to offer assistance. As a result, **Oscar** became homeless, despite having been granted the right to live and work in the UK. **Oscar's** story of vulnerability after being granted asylum is one that is reflected in the literature, where those who are granted leave to remain have permission to work, but experience some of the highest unemployment rates in the UK (Dwyer et al., 2016). Hynes and Sales (2010) discuss how the dispersal of refugees could be one of the reasons for high unemployment rates. Refugees are dispersed out of London and the south-east to other areas in the UK. This often means they are separated from their own family members and support networks (reflecting again some of the vulnerabilities generated by conflict as outlined in chapter four) and therefore must start the process of making connections all over again. However, perhaps more significantly, the areas that refugees are dispersed

to be determined by the availability of temporary housing. In many cases, temporary housing is concentrated around areas of economic deprivation, therefore adding further barriers to accessing work.

A report commissioned by The Refugee Council (Basedow and Doyle, 2016) found that there are also severe delays in refugees receiving key documents which give them the opportunity to find legal work. Basedow and Doyle (2016) undertook qualitative research with eleven individuals who had been granted asylum, and found that delays in receiving vital documents were common. Of the eleven interviewees, six had received their national insurance number before their government assistance had ended, while the other five had not. Without a national insurance number, these refugees were unable to access legal employment. This leaves them in a situation in which they have been granted refugee status, but their government support has ended and they are unable to legally find work. In these circumstances, refugees become destitute and are left with limited options. In such situations they are extremely susceptible to offers of illegitimate labour by employers who are willing to illegally take on workers without their national insurance numbers. Such employers know that the workers have no authority to call for fair working conditions or rates of pay and therefore have the power to stipulate long hours for little pay in the knowledge that the worker has little other choice. The government must recognise its failings in providing these documents in time to those to whom it grants asylum and it must accept accountability for the vulnerabilities it causes for those who fall through the gaps. As **Gamba** states, 'Asylum seekers are not allowed to work ... we can't fend for ourselves.'

The fact that such a high proportion of victims of modern slavery identified in the UK only experience the slavery within the UK (58 per cent in 2021) is unsurprising when considering the lack of support or information offered to those both seeking and granted asylum. Without effective communication, information, or support during this time of extreme instability, it can only be expected that offers of support or work from strangers would prove to be tempting. It must be acknowledged that some, like **Hattie**, do not know which country they are travelling to. They are so desperate to leave their situation that the end destination is irrelevant. **Barak** evidenced this in his exclamation that 'I want to go wherever! Even Somalia!' In such situations, it is simply not possible to research the legal requirements of the asylum system when they are unaware of where their destination country will be. The same can be said of those who may know where they intend to

travel to but, like **Edan**, the situation dictates that they leave immediately, without allowing them time to research the situation that awaits them upon arrival. As such, the government has a duty to try and reach as many immigrants as possible if it intends to be accountable to its claim of prioritising tackling modern slavery.

Although some of the interview respondents for this title had their asylum claims rejected, they all appealed these decisions and continued to wait for the next outcome. This means that the interviews did not provide examples of those who received negative decisions and were awaiting repatriation. However, to acknowledge those who have fled to the UK in order to escape situations—or potential situations—of modern slavery, it must be accepted that the UK government, in some instances, is returning people to situations of slavery, to situations in which they are likely to become victims of slavery, or to their deaths (Bulman, 2018b).

These issues all point towards the need for increased knowledge among both asylum seekers and statutory agencies. Asylum seekers need to know what the system is, how to navigate it, and what they should expect, which would have benefitted respondents such as **Oscar** and perhaps prevented him from becoming homeless after being granted asylum. Statutory agencies need to know how they could decrease the vulnerabilities of asylum seekers towards becoming victims of modern slavery and the importance of providing accurate information and clear communication.

6.2.3 Tied visas

Reflecting the vulnerabilities generated by the asylum system in terms of restricting the options available to migrants, another key way in which the UK government is allowing the perpetuation of systems of slavery is through its tied visa system for overseas domestic workers. In 2012, the UK government introduced the tied visa, which means that overseas domestic workers are tied to their employers once they come to the UK. This means that should the worker leave the employer for any reason, including to escape unfair or exploitative labour conditions, the worker will have breached their visa and is then liable for repatriation. As a result, for those in exploitative domestic work situations, the options available to the workers are reduced, an issue which, as discussed throughout this title, is one that can increase the likelihood of a person experiencing modern slavery. In the situation of a tied visa, the workers' legal choices are to stay in the exploitative situations

or to be returned to their home countries (Sloan, 2015). An amendment was made in 2016 which allows domestic workers to change employers, but only if their original six-month visa is still valid, which is an incredibly short timescale for reporting the abuse, raising, and concluding legal action. For those who have chosen the option of moving to the UK in order to escape a dangerous situation in their home countries, should their employment situation become exploitative, they may be reluctant to leave because they are so desperate not to be returned to their home country, thereby resigning themselves to a life of exploitation which the UK government will not allow them to challenge. However, should they choose to leave because of exploitation but want to avoid repatriation, the situation may become such that they choose to stay in the UK illegally, seeking support from agencies, acquaintances, or strangers in order to avoid the restrictive legal policies. Although this may lead to situations which still remain preferable to being returned home, there is also the potential for such situations to lead to modern slavery. As Moss describes (2011: no pagination), the choice of the UK government to disallow overseas domestic migrants the option to change employers:

betray[s] the fact that the Government is less concerned with policies that have been hailed by parliamentarians to be effective in preventing trafficking, such as the domestic worker visa protections, and more concerned with being seen to be tough on so called immigration crime.

6.3 Conclusion

This chapter has focused on two main areas: intersectionality and structural dynamics, and ways in which UK government systems encourage modern slavery. Focusing on these topics has addressed the impact of some key structural issues on generating situations of modern slavery.

The chapter has determined that the use of intersectionality alone in understanding people's identity is not enough to identify who may become vulnerable to modern slavery. People's age, gender, or ethnicity alone are not significant enough factors to put them at risk. Instead, their intersecting identities should be understood in tandem with the context and structural dynamics that they face. This means that it will be difficult to make any direct comparisons between people's experiences, because it will be rare that people will have the same intersecting identities *and* experience

the same context and structural dynamics. However, this research has indicated that the context and structural dynamics are more pertinent in identifying whether or not someone will be at risk of modern slavery than a person's identity intersections. The respondents who contributed to this research had extremely varied identities with differences in age, gender, ethnicity, nationality, and religion, yet they all lived through a similar context: conflict. Although the conflict varied for each respondent—for some it was war, for others it was familial conflict, employment conflict, or marital breakdown—a commonality between all the conflicts was the context that the conflict increased their vulnerability to modern slavery in two ways: by reducing the options available to those living through it, and leading to a breakdown in their support networks. It was this reduction in choice that forced the respondents into making decisions where every outcome held some element of risk, and the breakdown in support networks meant that they weren't able to turn to people they knew and trusted for help. As such, it was the context more than their identities that held inherent risk.

As outlined in chapter four, conflict generates two specific vulnerabilities which increase the likelihood of a person experiencing modern slavery: reducing the options available to a person, and breaking down their support network. This chapter demonstrates that these vulnerabilities aren't exclusively generated by conflicts and, in fact, there are policies in the UK that generate the same vulnerabilities and are responsible for increasing the risk that a person might become a victim of modern slavery.

In relation to the ways in which UK government systems encourage situations of modern slavery, there is drastic need for change. When she was prime minister of the UK, Theresa May claimed that her government would 'lead the way in defeating modern slavery' (May, 2016) and the UK government continues to state that tackling modern slavery is a priority. This is a non-controversial cause which serves to capture enthusiasm from all ends of the political spectrum, making it easy for the government to champion (McGrath, 2014; Kotiswaran and Okyere, 2015; O'Connell Davidson, 2016). Despite claims of 'leading the way', the government continues to focus on problems in source countries, despite the fact that the majority of victims in the UK only experience slavery after arriving in the UK.

The UK response to modern slavery conflates it with immigration crime which fails to reflect the genuine picture where UK nationals are the most commonly identified victims, and where the majority of victims have only experienced their exploitation within the UK. The NRM has been shown to be prejudiced against those potential victims who are not from the EU

(Cooper et al., 2017; Robinson, 2017), and conviction rates of perpetrators remain insignificant. There were 344 modern slavery cases heard in court between 2015 and 2019, and seventy-four (21.5 per cent) resulted in a conviction, with only sixty-two receiving an immediate prison sentence (Clugston, 2021). Further, the long waiting times to receive a Conclusive Grounds decision serve to exacerbate trauma and could encourage some to circumnavigate the system in order to begin to move on without having to wait such a long time to hear whether the Home Office believes their story.

The asylum system repeats the vulnerabilities generated by conflict as outlined in chapter four. It impacts agency and choice by leaving asylum seekers with limited support or options. It operates with a lack of clarity or communication, leaving many without knowledge of what is required of them or why certain information is needed. When this also exists within a hostile environment towards immigrants, it can lead to misunderstanding and distrust, where some may feel uncomfortable disclosing their traumatic experiences to those they believe have a vested interest in repatriating them to a country in which they feel unsafe.

The limiting of agency and resulting uncertainty about the future has a significantly detrimental impact on mental health for asylum seekers, and for some the outcome of the decision equates to a potential death sentence should they be repatriated. For many, this can cause a sense of hopelessness and despair, where thinking about the future becomes futile. For some this could encourage an avoidance of the system, leading to a life hiding from authorities and seeking to remain in the UK illegally, finding illegitimate work which holds the inherent risk of being exploitative because of its lack of regulation.

Those who are in the asylum system are commonly prohibited from working. This restricts their choices to: voluntarily returning to their home country, embracing the asylum system and accepting that they have no control on the timings or the outcome of the decision, or trying to make a life in the UK illegally and remaining hidden from authority. Again, this final option places them at risk when the only people willing to employ them will be those who are happy to do so illegally, and therefore the employee has no control over the terms of their employment.

Some of these issues are further reflected in the tied visa system which reduces the options available to overseas domestic workers. The visas tie the worker to their employer, meaning that if their situation becomes exploitative, in most cases they are left only with the options of either returning to their home country, which many of them have worked hard to leave, or

accepting the exploitation. This system places all the power in the hands of the employer and makes it almost impossible for someone on a tied visa to be able to raise a claim against their employer should they become exploited.

Defeating modern slavery simply does not fit into the environments that have been outlined in this chapter. The UK government cannot be praised for championing modern slavery while it continues to stall on central issues, ignore its own flaws, and perpetuate systems that are biased against migrants.