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## **Chapter 21: Trafficking and Exploitation**

Dr Laura Connelly

### **[A] Learning objectives**

By the end of this chapter, you will:

- Better understand the challenges associated with defining and measuring trafficking and exploitation
- Be able to think critically about how trafficking and exploitation may be used in the pursuit of other moral and political agendas
- Have considered trafficking's recent rebrand as modern slavery and the implications of this new framing for the human rights of people who migrate
- Be aware of how anti-trafficking efforts can cause harm, as well as helping trafficked and exploited people

### **[A] Framing questions**

While you read this chapter, you may want to ponder the following questions:

- Why are trafficking and exploitation such contentious issues?
- How are trafficking and exploitation used to pursue other policy agendas?
- Are current anti-trafficking efforts effective? Can they have (unintended) harmful consequences?

### **[A] Introduction**

Although once the concern of only a handful of **non-governmental organisations** (NGOs), trafficking and exploitation have risen up the political agenda in recent decades across much

of the world. Trafficking is in fact often framed as one of the foremost human rights issues of the twenty-first century. This is irrespective of the contention that exists both around the prevalence and the definitions of trafficking and exploitation, and disagreement over the degree to which anti-trafficking mechanisms have a positive impact upon human rights. Indeed, many of the claims made about trafficking by governments, state agencies, NGOs and some academics are unsubstantiated or, at the very least, contested. Furthermore, while trafficking research has burgeoned in recent years, there remains a lack of empirically, methodologically and theoretically rigorous research into trafficking and exploitation upon which to base evidence-informed policy.

With this in mind, this chapter encourages you to think about the topics of trafficking and exploitation with a critical criminological mind. The next section introduces you to the definitional difficulties surrounding trafficking; how trafficking and exploitation have been used to justify other policy agendas; and a key legislative development of recent years, the Modern Slavery Act 2015. In the main part of the chapter, we develop these themes in more detail and drill down upon some key issues. We first explore some of the challenges associated with measuring the extent of trafficking, before considering anti-trafficking responses in the UK context under the broad themes of prevention, protection and prosecution. We will then interrogate both how the modern slavery agenda and the Rescue Industry have gained traction in recent years, despite having some harmful consequences for people who migrate.

### **[A] Mapping the terrain**

In this section, we will begin to consider some of the definitional difficulties surrounding trafficking and exploitation, as well as key policy and legislative developments. Although there are no universally agreed definitions of trafficking and exploitation, for the 173 states that have

ratified the **United Nations Trafficking Protocol**, the definition of trafficking outlined in article 3a) is a key legal reference point:

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include... forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs (UN, 2000: 2).

It is generally understood that human trafficking has three constitutive elements:

- i) the action (recruitment, transportation, transfer...)
- ii) the means (threat or use of force, coercion, abduction...)
- iii) the purpose (sexual exploitation, forced labour, slavery...)

All three elements must be present in cases involving adult victims of trafficking. In cases involving children, the means element is not required because it is not necessary to establish that a child has given informed consent.

Although the UN Trafficking Protocol was initially considered an attempt to alleviate some of the historical contention around the definition of trafficking, it did little to prevent trafficking being used by a range of state and non-state actors in the pursuit of their own political and moral agendas. Some scholars have, for example, drawn attention to how states frequently conflate trafficking with smuggling. By doing so, draconian border policies can be framed as a way of preventing trafficking and exploitation, and therefore enacted with seeming legitimacy

(O’Connell Davidson, 2015). Yet there is ample evidence that rather than preventing trafficking and exploitation, anti-immigration practices force migrating people to pursue illegal mechanisms of entry and unregulated forms of employment, both of which leave them at greater risk of exploitation. Other scholars have highlighted how trafficking for sexual exploitation is routinely conflated with voluntary sex work in the pursuit of an anti-prostitution agenda. This is in spite of compelling counter-evidence which suggests that more often than not, migrant women involved in the sex industry have made rational decisions to sell sex (Mai, 2009). Debates over the relationship between sex trafficking and sex work are, therefore, vehemently polarised and have dominated discussions of human trafficking. This has meant that historically there has been an overwhelming focus on trafficking for sexual exploitation, both in academic literature and in policy and practice, to the neglect of other forms of trafficking and exploitation.

[Start Box]

Student Voice

“Trafficking is a challenging yet compelling subject matter, and one I urge every criminology student to familiarise themselves with. Its complexities in relation to real life situations differs greatly to the widely believed stereotypes thus, dissecting it carefully is imperative.” (Nazia Shah, LLB Law with Criminology student)

[End Box]

Yet it is **forced labour** that is in fact the most common type of exploitation in the UK. According to the International Labour Organisation, forced or compulsory labour is ‘all work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily’. Although forced labour is not restricted to

particular labour markets, sectors susceptible to exploitation include agriculture, factory work, construction, domestic work and hospitality. There is also increasing awareness around trafficking for forced criminality in the UK, particularly in relation to drug trafficking and cultivation. The Modern Slavery Act 2015 introduced a new statutory defence to protect against the inappropriate prosecution of victims of trafficking for crimes committed as part of their exploitation. Yet there is evidence to suggest that victims of trafficking may still be misidentified by the police as offenders and prosecuted by the Crown Prosecution Service (CPS).

The Modern Slavery Act – which received royal assent in England and Wales on 26 March 2015 – groups various phenomena together under the umbrella of **modern slavery**. Trafficking is but one possible outcome of modern slavery, alongside slavery, servitude, and forced or compulsory labour. These offences are not explicitly defined in the Act; although, Table 21.1 outlines the definitional guidance provided by the College of Policing (2017). Whilst the Act was welcomed by many for consolidating existing offences related to trafficking and slavery, it has been the subject of much criticism (see, for example: Craig et al., 2019). Anti-trafficking NGOs, for example, have argued that the Act focuses on policing to the neglect of protecting and supporting victims. An independent review in 2016 – the Haughey Review – also found that the operationalisation of the Act was hindered by patchy training for criminal justice agencies. Furthermore, although a key provision of the Act was the introduction of an Independent Anti-Slavery Commissioner, the first Commissioner, Kevin Hyland, resigned citing government interference. We will return to thinking about the Act, and the broader modern slavery discourse, a little later. For now, we will drill down upon some key issues in relation to trafficking and exploitation, starting with the problem of measurement.

**Table 21.1: Definitions of offences under the Modern Slavery Act 2015** (College of Policing, 2017)

Offence	Definition
Slavery	“...the status or condition of a person over whom any or all of the powers attaching the right of ownership are exercised. In essence, characteristics of ownership need to be present for a state of slavery to exist.”
Servitude	“Servitude is linked to slavery but is much broader than slavery. In <i>Siliadin v France</i> [2006] 43 EHRR 16, the European Court of Human Rights (ECtHR) reaffirmed that servitude is a ‘particularly serious form of denial of freedom’. It includes, in addition to the obligation to provide certain services to another, the obligation on the ‘serf’ to live on the other’s property and the perceived impossibility of changing his or her status.”
Forced or compulsory labour	“Section 1 of the Forced Labour Convention, 1930 (No. 29) defined forced or compulsory labour as being ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’. Case law suggests that indicators of forced or compulsory labour include recruitment by deception, coercion and/or abuse, exploitation at work, and coercion at destination.”
Human Trafficking	“This states that a person commits an offence if they arrange or facilitate the travel of another person, to exploit them. It is irrelevant whether the exploited person, adult or child, consents to the travel.”

**[A] The Extent of Trafficking: Measuring the Immeasurable?**

The prevalence of trafficking and exploitation is notoriously difficult to measure and as such, there is little agreement about the scale of the problem. Attempts at quantification vary enormously, commonly from 4 million up to 27 million. Although many estimates are based upon unreliable and ambiguous data sources, they have been repeated so often that they have become somewhat unquestioned. As Weitzer (2014: 14) notes, the figure of 27 million slaves worldwide derives from the work of Kevin Bales, who calls it “a good guess” but offers little indication of how he arrived at the figure. Nonetheless, it has been portrayed as factual by the

media, some non-governmental organisation, and by some government sources, including in the high-profile US State's Department Trafficking in Persons Report 2017 (Weitzer, 2014). There appears to be few reliable estimates of the magnitude of trafficking and statistics are too often inflated in order to attract funding donations, media coverage and the attention of the public and/or policy-makers. Indeed, the conflation of trafficking with smuggling and/or prostitution operates to inflate estimates in the service of particular policy agendas. Assessing the prevalence of trafficking therefore essentially remains guess work.

The difficulties associated with measuring trafficking and exploitation are, in large part, understandable. After all, they are mainly clandestine activities. Consistent with most forms of crime, the under-detected, under-reported and under-prosecuted nature of trafficking means that official crime statistics represent a significant underestimate of the problem [Knowledge link: Under-reporting and under-recording is also covered in Chapter 4]. The cross-border nature of trafficking compounds the problem of measurement since it dictates that different states around the globe must share information effectively, in order to accurately measure its prevalence. This represents a challenge in practice since there are significant differences between countries in the counting rules they employ, as well as their reporting practices, monitoring systems and criminal codes.

In the UK, the **National Referral Mechanism** (NRM) is often cited as a central point for the identification, support and systematic counting of victims of trafficking. The National Crime Agency (2019) indicates that there were 6,993 potential victims of trafficking referred into the NRM in 2018, an 80% increase on the previous two years. It is important that we recognise, however, that NRM statistics reveal little in reality. Many victims of trafficking are not referred into the NRM, either because they do not come to the attention of the agencies that can make a referral or because they do not wish to be processed in this manner. Furthermore, the notable

increase in referrals is likely to be the result of improved awareness of trafficking rather than an increase in this type of crime per se. We must therefore think critically about any attempt to measure the prevalence of trafficking and not simply repeat unverifiable statistics. Let us now turn our critical criminological minds to anti-trafficking responses in the UK, under the broad themes of prevention, protection and prosecution.

[Start box]

Pause for Thought:

Why is it difficult to measure the extent of trafficking and exploitation?

[End Box]

### **[A] Anti-Trafficking Responses: The '3Ps' of Prevention, Protection and Prosecution**

States around the world often categorise their anti-trafficking responses within the strategic framework of the '3Ps': prevention, protection and prosecution. This framework was first used by the US Government in its annual Trafficking in Persons Report and then taken up latterly within the UN Trafficking Protocol. In UK domestic policy, the '3Ps' featured explicitly in the 2007 UK Action Plan on Tackling Human Trafficking, its updates in 2008 and 2009, and remained integral to Human Trafficking: The Government Strategy in 2011. Whilst the current Modern Slavery Strategy does not cite the '3Ps' explicitly, the goals of prevention, protection and prosecution remain central. In practice, however, it does not appear that the '3Ps' have been taken up by states in equal measure. The goal of prosecution often seems to be prioritised over victim protection. Of course, the '3Ps' are not mutually exclusive – that is to say, prevention, protection and prosecution efforts can crosscut. Let us bear that in mind as we now consider in turn how each of the '3Ps' are operationalised in the UK context.

*[B] Prevention of trafficking*

Preventative efforts have been operationalised in several ways in the UK. Firstly, a range of state and non-state anti-trafficking actors – such as representatives from the National Crime Agency and the police, Police and Crime Commissioners, and NGOs – have sought to improve understandings of trafficking amongst the general public, as well as amongst officials who may come across trafficked people, and latterly amongst businesses. One of the key ways in which NGOs have sought to ‘improve’ public awareness around trafficking and exploitation is through anti-trafficking campaigns. Simplified storylines and visceral imagery are, however, key components of many of these campaigns. Scholars have therefore argued that these campaigns, although well-intentioned, may in fact have harmful consequences for people who migrate. Indeed, they delimit so narrowly the category of victim that many exploited migrants may not recognise their victimisation. Simplistic campaigns may also discourage would-be migrants from crossing borders and thus serve nationalistic border regimes, as well as legitimising the deportation of trafficked people. Another key way in which institutions such as the police and immigration authorities, as well as NGOs, have sought to raise awareness is by encouraging the public to ‘spot the signs’ of trafficking. This can be understood within the context of a broader shift towards responsabilising the public for crime prevention since the 1990s. Yet the ‘signs of trafficking’ often apply to migrants working voluntarily in the UK. Thus, members of the public concerned with trafficking become, in effect, tasked with identifying undocumented migrants, who may then be detained and deported by the Home Office. Furthermore, it does not hold true that once a member of the public has ‘spotted’ a trafficked person that person will be legally entitled to victim status, a point we will return to later.

A second way in which preventive efforts are operationalised is by targeting ‘demand’. This may involve appealing to consumers of products produced or services performed by victims of trafficking and/or targeting the employers of trafficked people. Traditionally, demand efforts have been focused on one particular type of trafficking – that is, trafficking for sexual exploitation. Radical feminist/abolitionists individuals and organisations argue that laws should be introduced to criminalise those who purchase sex. They argue that if clients were deterred from buying sex, there would no longer be a demand, thus eliminating victims of sex trafficking. Yet, it is both problematic and ineffective to advocate for the eradication of an entire industry as a way of dealing with exploitation. Indeed, the criminalisation of sex work clients in Sweden (as well as Northern Ireland, France, Norway and a host of other countries) has led to: increased competition between sex workers and therefore greater difficulties in terms of negotiating safer sex work; an increased in violence against those who sell sex; and a deterioration in the relationship between police and sex workers (Levy, 2015).

Thirdly, preventative efforts may take the form of addressing the ‘supply’ of victims of trafficking by engaging in anti-trafficking work in ‘origin countries’ and through border control. Much of the preventative work in origin countries focuses upon identifying individuals who may be at risk of being trafficked. Risk-focused and early-intervention crime prevention of this sort is, however, widely criticised. The high level of subjectively involved means that the ‘science’ of prediction is likely to yield both false positives and false negatives. Furthermore, who is identified as ‘at risk’ is likely to be informed by gendered and racialised stereotypes. In relation to the other key ‘supply side’ measure – that is, border control – the UN Trafficking Protocol requires states to strengthen their borders in order to tackle human trafficking. In the UK, increasingly restrictive immigration policies have been accompanied by anti-immigration sentiments which construct migrants as undesirable. Sentiments of this nature, in turn, justify the implementation of draconian border policies. Yet there is growing

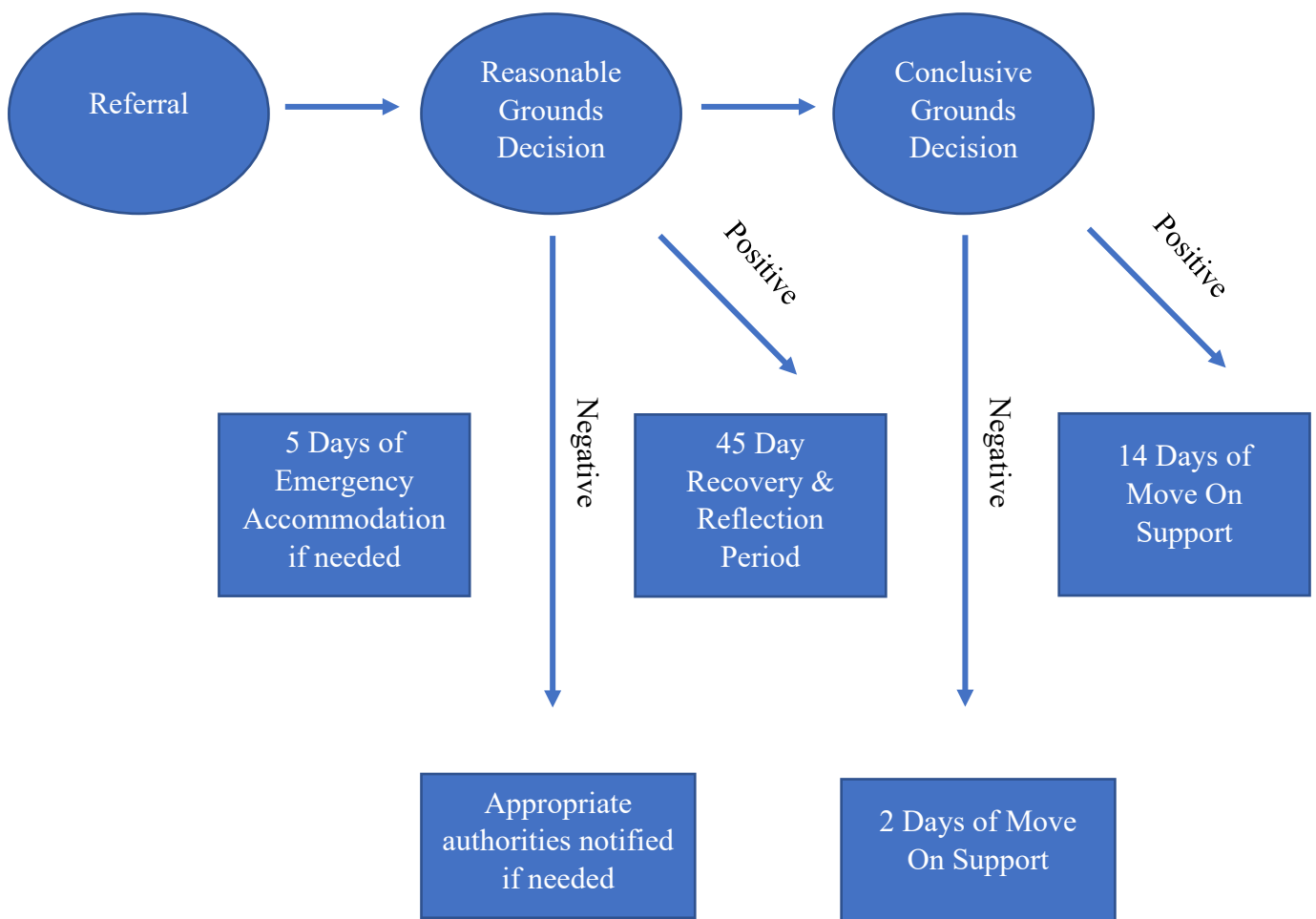
awareness that preventive measures will likely fail if they focus solely upon the individual-level risk factors associated with trafficking and the closing of legal routes of immigration. Instead, as criminologists, we should also consider the socio-structural factors that create and maintain the conditions that give rise to trafficking and exploitation.

### *[B] Protection from trafficking*

In relation to the second strategic aim, protection, the Ministry of Justice contracts The Salvation Army to provide victim support provisions in England and Wales under the National Referral Mechanism (NRM). Of course, other anti-trafficking NGOs provide support outside of the NRM but we will focus on the state-funded system here. The NRM was established in 2009 as a framework for identifying potential victims of trafficking and ensuring they receive government-funded support. As Figure 21.1 depicts, once a referral is made into the NRM, the Single Competent Authority (SCA) first makes a Reasonable Grounds decision to determine if it suspects the person to be a potential victim of trafficking. The burden of proof at this point is relatively low, at least lower than the criminal standard of proof (i.e. beyond reasonable doubt). A positive Reasonable Grounds decision entitles the potential victim to a government funded **Recovery and Reflection period** of a minimum of 45-days, in accordance with the UN Trafficking Protocol. During this period, potential victims of trafficking are entitled to support (*recovery*) provisions via The Salvation Army's sub-contractors. The period is also intended to give potential victims time to *reflect* on whether they would like to cooperate with law enforcement agencies. A Conclusive Grounds decision should then be made by the SCA as soon as possible after 45-days to determine, 'on the balance of probabilities' that there is sufficient evidence that the individual is a victim of trafficking. A positive Conclusive Grounds decision will trigger an additional 14-days of 'move on' support, whilst those granted a negative Conclusive Grounds decision receive only two days of additional support. It is, however, often

argued that the 45-day Recovery and Reflect period is not long enough to address the complex needs of many victims of trafficking, and that government-funded ‘move on’ support is inadequate. This may be particularly so for victims who are pursuing immigration applications, or who are embroiled in complex legal cases or compensation claims (Roberts, 2018).

Figure 21.1: The National Referral Mechanism Process



*[B] Prosecution of trafficking*

The third strategic aim pursued by anti-trafficking actors is that of ‘prosecution’. Despite being a key anti-trafficking priority in the UK, there have been relatively few prosecutions for human trafficking offences. According to the UK Government’s Modern Slavery Report 2018, 309 defendants were prosecuted under the Modern Slavery Act 2015 in 2017, whether or not

modern slavery was the principle offence. That is to say, in some cases the defendant may have been charged with other offences alongside modern slavery. This represents an increase from 2016, when 155 defendants were prosecuted. It is important to remember, however, that under the Modern Slavery Act 2015, modern slavery offences include human trafficking but also slavery, servitude, and forced and compulsory labour. It is also important to recognise that there have been far fewer convictions under the Act. In 2017, there were 63 convictions; although, only 22 of these convictions were on a principle offence basis. In other words, the majority of those convicted under the Modern Slavery Act were convicted of another offence (under different legislation), for which they received a higher penalty.

One of the key challenges involved in securing successful convictions for trafficking offences is that victims are often reluctant to engage with the criminal justice system. Without victim testimonies, it can be more difficult to secure a conviction in a trafficking case. It is widely documented in the academic literature that victims' reluctance to engage with the police or provide testimony in court may be based upon a fear of reprisal. Other victims lack trust in the criminal justice system. This may be due to bad experiences of the police in their countries of origin but it may also be the result of negative experiences of the police in destination countries. There is evidence to suggest that victims of trafficking find police 'rescue raids' to be traumatic events that leave them feeling confused about what is happening and concerned about possible arrest and deportation (Boff, 2012). It may also be the case that victims of trafficking or exploitation do not wish to engage with the criminal justice system because they do not consider themselves to be victims. Some victims of trafficking are understood to develop emotional attachments to their trafficker, whilst others may be willing to pay a debt bondage and endure exploitative conditions because they deem that preferable to the circumstances in which they found themselves previously.

In other cases, victims may be deemed by the police or the CPS not suitable to provide testimony in court. Instead, the involvement of a victim may be considered a threat to their own wellbeing and/or understood as likely to jeopardise the success of the case. My own research indicates that before allowing a victim to provide testimony in court, the police and CPS often assess whether the victim appears ‘believable’, are able to construct a consistent narrative about their experiences, and/or able to withstand cross-examination. Judgements about the ‘credibility’ of trafficking victims are often, however, quite arbitrary and may be informed by the ‘ideal victim’ stereotypes we will examine later in the chapter [Knowledge link: The topics of witness testimony and ideal victim thesis are also covered in Chapter 41]. Furthermore, another key barrier to securing a conviction in trafficking cases relates to the challenges associated with evidence-gathering to build a case. It can, for example, be difficult to draw a line between forced labour and labour that is performed willingly. Trafficking cases can also be exceptionally expensive for police forces to investigate, particularly if they involve large policing operations (such as in the Rooney case: see Key Case 21.1) or are cross-border in nature. Given the challenges associated with proving a suspect’s guilt (beyond reasonable doubt) in trafficking cases, the CPS appear to routinely chose to prosecute under a statute with which they believe they are more likely to secure a conviction (e.g. for fraud or grievous bodily harm). This can lead to a distortion in the official statistics. The introduction of the Modern Slavery Act in 2015 was intended to make it easier to prosecute traffickers; although, there is not yet enough evidence to assess whether this has been successful. Nonetheless, we will now turn to think some more about the broader modern slavery agenda that was both constitutive of and constituted by the Modern Slavery Act 2105.

[Start Box]

### **Key Case 21.1: Operation Pottery**

In one of the biggest modern slavery cases in English legal history, eleven members of the Rooney family were jailed in 2017 for exploiting at least eighteen victims of modern slavery offences. Across a series of trials at Lincolnshire Crown Court, jurors heard how the Rooney family targeted men between the ages of 18 and 63 who were ‘vulnerable’: some were homeless, had learning difficulties, mental health problems, and/or suffered from alcoholism. The Rooneys promised their victims paid work via their tarmacking and paving business, and food and accommodation in caravans on the Drinsey Nook Traveller site upon which the Rooney family lived. However, Operation Pottery – an exceptionally costly police investigation – found that the Rooney family had subjected their victims to violence and intimidation, squalid living conditions, and made them work for little or no pay. In 2019, twelve members of the Rooney family were ordered to pay their victims £1,000,000 under the Proceeds of Crime Act 2002.

[End Box]

[Start Box]

Pause for Thought:

What are some of the challenges associated with implementing the 3Ps of Prevention, Protection and Prosecution?

[End Box]

### **[A] The Rebranding of Trafficking as Modern Slavery**

In the UK, the term trafficking has been largely replaced by the term modern slavery in debates around severe forms of exploitation in recent years. This is, in no small part, one of the consequences of the Modern Slavery Act 2015 but the term modern slavery had been gaining

traction in the years leading up to the Act too. Although the Act indicates that trafficking is but one possible outcome of modern slavery, the terms often appear to be used interchangeably in political discourse, and by a range of state and non-state actors. This shift is understood by academics to represent something more than simple linguistic slippage and they have raised a number of concerns about the modern slavery agenda (see Craig et al., 2019). Indeed, as criminologists, it is important that we think about why the modern slavery discourse has gained traction, how it is used to justify particular policy responses, and what effects these policy responses have. It is these issues that we now turn to.

In large part, the modern slavery agenda has gained significant traction in recent years not only because of concerns about human rights but also, because of its successful deployment of highly emotive language and imagery. The modern slavery agenda relies heavily upon a link drawn – either explicitly or implicitly – between contemporary forms of exploitation and the trans-Atlantic slave trade. Indeed, the adjective ‘modern’ functions to set apart ‘new’ slavery from ‘old’ by implying that slavery has re-emerged in recent years, whilst retaining the powerful imagery the trans-Atlantic slavery metaphor evokes. Bravo (2011: 562) argues that the trans-Atlantic slave trade serves as an ‘emotional and historical touchstone’ – that is to say, the visceral imagery it commands resonates powerfully across the globe. She argues that the emotions the analogy generates – shock, shame, guilt, horror – when cultivated effectively, can be used to mobilise action. Yet some critics argue that the link drawn between ‘old’ and ‘new’ slavery trivialises the trans-Atlantic slave trade by failing to recognise that while ‘old’ slavery involved the forced movement of African peoples, those labelled as contemporary victims of trafficking almost invariably make conscious decisions to migrate (O’Connell Davidson, 2015). In this sense, the gradual inclusion of a range of forms of exploitation under the umbrella of modern slavery is a form of exploitation creep in which the seriousness of slavery risks becoming diluted. Equating contemporary forms of exploitation with trans-Atlantic slavery is

viewed by some, therefore, to appropriate the suffering of Black people to serve a contemporary political agenda.

Other criticisms of the modern slavery agenda focus on how it justifies particular policy responses. For example, scholars have drawn attention to how the modern slavery agenda has arisen from, and further enables, neo-conservative moral agendas on prostitution (see for example: Agustín, 2007). In both the UK and US, abolitionist feminists – those opposed to the sex industry – have found an uneasy alliance with religious conservatives around the issue of trafficking for sexual exploitation. Despite historical differences in their gender and sexuality politics, these two groups have joined efforts to lobby for the criminalisation of the purchase of sex as a way of preventing trafficking and exploitation. Yet they have faced significant criticisms for conflating the voluntary sale of sex and ‘sexual slavery’ and in so doing, denying the agency of sex workers and legitimising (anti-prostitution) policy and practice that is reported to harm those who sell sex. As noted in the hear from the expert box 21.1, the conflation of sex work and sex trafficking may also occur in policing responses to trafficking and exploitation. The modern slavery agenda has also been criticised for encouraging the practice of ‘rescuing’ people constructed as ‘sex slaves’ – even if those people do not view themselves as victims of modern slavery – a practice considered by some to be both ineffective and paternalistic. We will return to think more about ‘rescue’ practices and their consequences shortly.

[Start Box]

### **Hear from the Expert 21.1: The conflation of sex work and sex trafficking as part of the modern slavery agenda**

Professor Teela Sanders works closely with the police to develop evidence-based policy around the sex industry. She notes that: “Working with the police to disseminate research knowledge

and make evidence-based policy around sex work related issues is often tricky because the government (and therefore targets; taskforces; resources; intelligence) focuses largely on the ‘modern slavery agenda’. Often, police forces have individuals who are responsible for safeguarding, child sexual exploitation, modern slavery, as well as sex work/prostitution. As these roles become conflated, the nuances of context and individual agency/circumstances are often not understood, or where they are, police have little time/resources to act according to nuance. A classic example is the idea that ‘pop up brothels’ are the harbourers of trafficked migrant women, when the reality is that many people work within their own ethnic groups, move around, and are making rational choices – within a set of circumstances – to make a living through selling sex.”

[End Box]

Scholars have also drawn attention to how the modern slavery agenda also works in the interests of crime control and immigration agencies. Indeed, modern slavery has tended to be conceived of narrowly and within a simple narrative of good and evil. This operates to perpetuate stereotypical understandings of trafficking, in which victims are constructed as those who have been kidnapped or otherwise moved against their will by an evil individual or organisation, much like the victim in the 2008 film *Taken* starring Liam Neeson. According to Chuang (2015: 146), this framing ‘creates a simple moral imperative with enormous popular appeal.’ Yet in so doing, it operates to direct the blame for modern slavery towards the individual criminal and away from the role the state plays in creating and maintaining the socio-structural conditions that give rise to exploitation (O’Connell Davidson, 2015). Therefore, through institutions like the police, the state can be seen to be ‘doing something’ – that is, punishing traffickers and ‘rescuing’ victims – whilst in effect doing very little to address the real causes of trafficking and exploitation. Furthermore, the evil trafficker is almost invariably

constructed as the foreign ‘Other’ within the broader criminalisation of migrants – or at least particular migrants – in much of the Western world. Thus, draconian border controls can be ‘justifiably’ implemented under the guise of tackling so-called modern slavery. Anti-immigration policy and practice is not only legitimised through the modern slavery agenda but also via the Rescue Industry, and so we will now move on to examine what the Rescue Industry is and does, and how it simultaneously helps and harms trafficked and exploited people.

### **[A] The Rescue Industry**

A growing body of literature draws attention to how a burgeoning and highly profitable industry has emerged around fighting trafficking for sexual exploitation. Agustín (2007) calls this the **Rescue Industry**: a growing network of ‘social helpers’ who seek to ‘rescue’ women from, what they perceive to be, the horrors of the commercial sex industry. For many anti-trafficking actors within the Rescue Industry, their approach is characterised by benevolence: a well-meaning aspiration to improve the lives of migrant women. As such, they no doubt represent an important source of support to some women involved in the sex industry, providing safe-housing, health care and other victim services. The provision of these services is particularly important in light of government funding cuts in recent years, which have meant that NGOs play a crucial role in plugging the gaps in victim support left by a retreating welfare state. Yet critics of the ‘rescue’ approach argue that it can cause harm, as well as helping victims of trafficking and exploitation (see, for example, Connelly, 2015). It is important, therefore, that we now look with a critical criminological eye at how the Rescue Industry can simultaneously help and harm.

Within the Rescue Industry, the brothel raid – sometimes framed as a ‘welfare visit’ – has become a key anti-trafficking instrument. Very often a partnership-approach is adopted during these ‘visits’; that is to say, the traditional police practice of raiding is combined with NGO

outreach, and they are sometimes joined by immigration authorities. Together these agencies enter, typically by force, premises believed to be occupied by victims of trafficking, in order to ‘save’ them from exploitation. Whilst the practice has no doubt led to the identification of some victims of trafficking, ‘raid and rescue’ has been widely criticised by academics and NGOs that support the movement for sex workers rights. Notably, the practice fails to recognise that not all migrants involved in the sex industry require or desire to be saved. With limited access to formal labour markets, undocumented people may perceive sex work to represent a viable and flexible form of employment. Sex working may provide an income that enables “dignified living standards in the UK, while dramatically improving the conditions of their families in the country of origin” (Mai, 2009: 1). Furthermore, there is ample evidence that ‘raid and rescue’ practices place sex workers in positions of vulnerability, leaving them homeless, displaced and unemployed. Premises known to be occupied by migrant sex workers may be targeted for raiding in particular, with the guise of rescue used to justify their arrest, detention and/or deportation.

My own research indicates that it is common practice within the Rescue Industry to conflate migrancy, trafficking and prostitution. This conflation can, in some cases, result in the over-application of trafficking victim status and in others, it can result in the denial of trafficking victim status. At first glance, this idea seems somewhat contradictory, so let us unpack it some more. On the one hand, individuals and organisations oriented by radical feminist/abolitionist goals assume that all migrants involved in the sex industry are victims of trafficking since they believe that no one would sell sex willingly. On the other hand, others involved in the (broadly-defined) Rescue Industry – particularly, although not exclusively, police and immigration officials – routinely engage in a systematic disbelieving of trafficking victimhood, assuming that an ulterior motive exists behind victim claims. It seems that some **subaltern** women – a term used by Gayatri Chakravorty Spivak to refer to those who are socially, politically and

geographically marginal from the hegemonic power structure – struggle to acquire victim status and instead are treated as immigration offenders. Thus, a seemingly paradoxical situation exists within the Rescue Industry. However, both approaches in fact serve a similar purpose in that they justify the deportation of migrating peoples. By constructing migrants involved in the sex industry as victims, they can be ‘justifiably’ deported under the guise of protection, and by constructing them as illegal immigrants, exploited migrants can be ‘justifiably’ arrested, detained and deported under the guise of protecting national security. In this sense, the Rescue Industry can be understood as another tool through which to suppress the movement of ‘undesirable’ bodies.

It is clear then that victimhood is not an objective experience [Knowledge link: This topic of victimhood is also covered in Chapter 3]. One does not simply acquire trafficking victim status based solely upon the interaction(s) that have taken place with an ‘offender’ or because one has experienced something that violates a criminal law. Instead, the label of victim is more readily conferred upon some people than others and therefore, as noted in Student Box 21.1, involves some kind of socio-political judgement from those in positions of relative power. With this in mind, it is important that we think about the construction of the ‘ideal victim’ in relation to trafficking (Christie, 1986). The ideal trafficking victim is constructed as entirely blameless. That is to say, the victim’s account will be more readily accepted if they have displayed little or no agency in their movement across borders nor in the sale of sex. This construction of the ideal trafficking victim is based upon, and works to reaffirm, a false dichotomy between agency and coercion. This dichotomisation is inherently problematic. Few victims of trafficking have exercised no agency at all and as such, they often face significant challenges to having their victim claims believed by the authorities. Those who are seen as being in some way ‘complicit’ in their exploitation may not be seen as real victims but instead, regarded as (immigration or prostitution) offenders. Thus, while the Rescue Industry is commonly understood to be built

upon good intentions, it can operate to exert social control, as well as offering care to those who are granted the (heavily politicised) label of victim of trafficking.

[Start Box]

### **Student Voice 2**

“I found studying the topic of trafficking very interesting yet a little upsetting. As a female, it triggered a sense of rage within me as it shows the power relations that exist within the sex industry and how victims of trafficking can be portrayed as an ‘offender’ rather than, as a ‘victim.’” (Lydia Carruthers, Psychology and Criminology student)

[End Box]

### **Chapter summary**

This chapter has introduced you to the topics of trafficking and exploitation, encouraging you to think about these complex and timely issues with a critical criminological mind. It is important to remember that:

- While responding to trafficking (or ‘modern slavery’) has become a political priority in recent years, there remains significant disagreement about: what it is; how prevalent it is; how best to respond to it; how it links to and can be used in service to agendas surrounding other issues, such as immigration and/or prostitution; and the extent to which anti-trafficking efforts actually have a positive impact upon people who migrate. A key message to take away then is that trafficking and exploitation are highly contentious issues.
- Trafficking’s recent rebrand as ‘modern slavery’ has only muddied the waters further, raising concerns that the seriousness of slavery risks becoming diluted in order to serve

particular (conservative) moral and political agendas and in turn, that the human rights of people who migrate are undermined.

- Anti-trafficking efforts – although often well-intentioned – can be used as a guise through which to pursue harmful anti-prostitution practices and a draconian immigration agenda. It is therefore essential that we, as criminologists, draw attention to how seemingly benevolent anti-trafficking policy and practice can cause significant harm, as well as helping those labelled as victims of trafficking.

### **Review Questions**

- Why is it difficult to measure the extent of trafficking and exploitation?
- What challenges do anti-trafficking actors face when implementing anti-trafficking policy and practice through the framework of the ‘3Ps’?
- What are some of the problems associated with reframing trafficking as modern slavery?
- How have trafficking and exploitation been hijacked in the pursuit of an anti-immigration agenda?
- To what extent does the Rescue Industry help and/or harm migrants involved in the sex industry?

### **Go Further**

I recommend the following three books that develop in more detail the issues touched upon in this chapter:

1. Maggie Lee’s (2011) *Trafficking and Global Crime Control* provides a clear and accessible introduction to the topic of human trafficking, and the contentious forms of control, regulation and surveillance that have been enacted to combat it.

2. For those interested in the relationship between trafficking and the modern slavery agenda, Julia O’Connell Davidson’s (2015) ground-breaking *Modern Slavery: The Margins of Freedom* challenges popular and policy discourses around modern slavery.
3. Laura Agustín’s *Sex at the Margins: Migration, Labour Markets and the Rescue Industry* (2007) remains the authoritative source on how the conflation of voluntary migrant sex work and sex trafficking operates to disempower women and justify interventions into their lives.

The following online resources will also be of use to those interested in learning more about the topics of trafficking and exploitation:

1. *It’s Time for the Anti-Trafficking Sector to Stand Up for Decriminalisation of Sex Work* (2019) is an anonymous blog by an anti-trafficking actor for the Beyond Trafficking and Slavery Open Democracy series. It makes the case for a shift away from the anti-prostitution ideology that dominates the anti-trafficking sector.
2. Karen Bravo’s (2014) blog for Open Democracy on *Trans-Atlantic Slavery and Contemporary Human Trafficking* offers an accessible analysis of how ‘old’ slavery is invoked in contemporary anti-trafficking efforts and the consequences of its invocation.
3. Luke De Noronha’s (2015) blog for Open Democracy entitled *‘Foreign Criminals’ and Victims of Trafficking - Fantasies, Categories and Control* examines how simple constructions of trafficking ‘victims’ and ‘villains’ legitimise an anti-immigration agenda.

Finally, the following three journal articles expand on the key themes underpinning this chapter:

1. Janie Chuang’s excellent article examines the rebranding of trafficking as modern slavery and the problem associated with it: Chuang, J. (2015) The challenges and perils of reframing trafficking as ‘modern-day slavery’, *Anti-Trafficking Review*, 5: 146–149.

2. For an analysis of how the Rescue Industry operates in the UK context, my own short article will serve as an assessible introduction: Connelly, L. (2015) The Rescue Industry: The Blurred Line Between Help and Hindrance, *Graduate Journal of Social Science*, 11(2): 154-160.
3. Nandita Sharma's (2003) article remains an authoritative source on how anti-trafficking efforts operate to reinforce restrictive immigration practices and those rendered illegal: Sharma, N. (2003) Travel Agency: A Critique of Anti-Trafficking Campaigns, *Refuge*, 21(3): 53-65.

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- Christie, N. (1986) 'The ideal victim', In E. Fattah (ed.) *From Crime Policy to Victim Policy: Reorienting the justice system*. London: Macmillan. pp. 17-30.
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- Connelly, L. (2015) 'The rescue industry: When help becomes a hindrance' *Graduate Journal of Social Science*, 11(2): 154-160.
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- Mai, N. (2009) *Migrant Workers in the UK Sex Industry: Full Research Report*. Swindon: ESRC.
- O'Connell Davidson, J. (2015) *Modern Slavery: The Margins of Freedom*. London: Palgrave.
- Roberts, K. (2018) Life after trafficking: A gap in UK's modern slavery efforts, *Anti-Trafficking Review*, 10: 164–168.
- Weitzer, R. (2014) New directions in research on human trafficking, *The ANNALS of the American Academy of Political and Social Science*, 653(1): 6-24.

## **Glossary**

Forced Labour: Any work or services that people are forced to perform against their will.

Modern Slavery: Under the Modern Slavery Act 2015, modern slavery includes the following: human trafficking, slavery, servitude and forced or compulsory labour.

National Referral Mechanism: This is the framework used in the UK for identifying victims of trafficking, and ensuring they receive appropriate care via the Government's contract with The Salvation Army.

Non-governmental Organisations: These not-for-profit organisations exist independently from any government. They typically provide a service, try to achieve particular social and political aims, and/or advocate for public policy.

Recovery and Reflection period: This 45-day period is granted to people who have been referred into the National Referral Mechanism and judged to be a potential victim of trafficking. They are granted Government-funded victim support services during this time (recovery) and encouraged to think about whether they would like to engage with the police (reflection).

Rescue Industry: A growing network of social helpers who have taken it upon themselves to save women from what they perceive to be the horrors of the sex industry.

Subaltern: This is a term used (typically within postcolonial theory) to describe people who are socially, politically and geographically marginal from the hegemonic power structure

United National Trafficking Protocol: This is a shorthand name given to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

### **Companion Website – Digital Resources**

*Short MCQ quiz of five questions*

- 1) How many victims of trafficking are there in the UK?
  - a) 6,993
  - b) 75,000

- c) 4 million
  - d) We can't say for sure (correct answer)
- 2) The Modern Slavery Act was introduced in England and Wales in:
- a) January 1908
  - b) July 1957
  - c) March 2015 (correct answer)
  - d) October 2018
- 3) As part of the National Referral Mechanism, the Competent Authority makes two key decisions. They are called:
- a) Reasonable Grounds and Conclusive Ground decisions (correct answer)
  - b) Recovery and Reflection decisions
  - c) First Assessment and Second Assessment decisions
  - d) Victim and Visa decisions
- 4) The 'ideal victim' of sex trafficking is someone who is regarded as
- a) Having chosen to sell sex voluntarily but regrets it
  - b) Having exhibited no agency either in their movement across borders or in the sale of sex (correct answer)
  - c) Having chosen to cross borders using the services of a smuggler but has subsequently been exploited
  - d) Having chosen to sell sex but has to pay off a debt bondage
- 5) The Rescue Industry is made up of

- a) Police and immigration officials only
- b) Non-governmental organisations only
- c) A range of ‘social helpers’ from a diverse network of organisations and agencies  
(correct answer)
- d) Different states/countries

*Two videos from the SAGE Collection*

Unable to access due to no username

*Three links to SAGE journal articles*

1. Davies, J. (2018) From severe to routine labour exploitation: The case of migrant workers in the UK food industry, *Criminology and Criminal Justice*, 19(3): 294-310 – Davies draws much needed attention to ‘routine’ forms of labour exploitation which, although harmful, are often neglected in favour of focusing on extreme forms of exploitation (such as ‘modern slavery’).
2. Goodey, J. (2008) Human Trafficking: Sketchy Data and Policy Responses, *Criminology and Criminal Justice*, 8(4): 421-442 – This article remains one of the most comprehensive analysis of legislative and policy responses to trafficking. It expertly traces how an industry of NGOs have emerged around the issue of trafficking.
3. Weitzer, R. (2007) The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade, *Politics and Society*, 35(3): 447-475 – In this article, Weitzer unpacks some of the myths that underpin sex trafficking discourses.

*Three Essay questions*

1. Drawing upon relevant literature, consider the extent to which trafficking and exploitation have been taken up in the pursuit of anti-immigration and anti-prostitution agendas?

2. Critically assess the effectiveness of current anti-trafficking efforts under the '3Ps' model of prevention, protection and prosecution.
3. Anti-trafficking efforts in the UK simultaneously help and harm people who migrate.  
Critically Discuss.