

**Original citation:**

Lammasniemi, Laura. (2017) Anti-white slavery legislation and its legacies in England. *Anti-Trafficking Review* (9). pp. 64-76.

**Permanent WRAP URL:**

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Published version:

<http://www.antitraffickingreview.org/index.php/atrjournal/article/view/264>

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## Anti-White Slavery Legislation and its Legacies in England

Laura Lammasniemi

### Abstract

This paper argues that the foundation of modern anti-trafficking laws in England and Wales was created at the turn of the twentieth century, during the peak of white slavery hysteria. It shows that a series of interrelated legal interventions formed that foundation. While white slavery as a myth has been analysed, this paper turns the focus on legal regulation and shows why it is important to analyse its history in order to understand modern responses to trafficking. It focuses, in particular, on the first legal definition of victims of trafficking, involvement of vigilance associations in law reform, and on restrictions put in place on women's immigration. Finally, it reflects on how laws enacted at the turn of the twentieth century still resonate with those of today.

**Keywords:** trafficking in women, white slavery, legal history, victimhood, migration, England

Please cite this article as: L Lammasniemi, 'Anti-White Slavery Legislation and its Legacies in England', *Anti-Trafficking Review*, issue 9, 2017, pp. 64—76, [www.antitraffickingreview.org](http://www.antitraffickingreview.org)

### Introduction

The concepts of human trafficking and white slavery did not appear *ex nihilo*: neither in the modern-day context, nor at the turn of the twentieth century. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol), adopted in 2000, is often credited with the first international definition of human trafficking and with marking the beginning of the regulation of trafficking in persons, both in the domestic and

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international spheres.<sup>1</sup> This article argues otherwise. It focuses on the legislation of ‘white slavery’, as trafficking in women was then called, enacted between the years 1885 and 1912, a hitherto neglected part of the history. It argues that the foundation of modern anti-trafficking legislation in England was created during those years through a series of legal interventions, and that the legacies of those laws are still present. More specifically, the legal interventions between the years 1885 and 1912 (a) created a legal definition of the trafficking victim; (b) outlawed procurement and transnational trafficking for sexual exploitation; (c) formalised the relationship between the state and the charitable/vigilance associations; and (d) created provisions to monitor and restrict the migration of women.

While scholars such as Jo Doezema and Jane Scoular have noted the ideological parallels between the narratives of the past and present, there has been no comprehensive and systematic inquiry into the origins of the legal regulation of white slavery/trafficking in England.<sup>2</sup> This paper aims to bridge that gap by focusing on the key elements of white slavery legislation and offering reflections on how it still resonates today.

The article utilises legal historical methodologies and in particular, archival research. It draws from various archival collections such as the Home Office and the Metropolitan Police archives held in the UK National Archives in London. It also utilises the archives of different organisations held at the Women’s Library in London, such as those of the National Vigilance Association (NVA), an evangelical moral-purity organisation that dominated the field at the time. The archival collections assist in not only mapping legal history but in understanding why these laws came into existence when they did, why they were enacted in the form that they were, and whose views and voices were excluded from law reform.

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<sup>1</sup> S Scarpa, *Trafficking in Human Beings: Modern slavery*, Oxford University Press, Oxford, 2010; K H Heinrich, ‘Ten Years After the Palermo Protocol: Where are protections for human trafficking?’, *Human Rights Brief*, vol. 18, issue 1, 2010, p. 2. Also, many NGOs and those responsible for enforcing the laws traditionally refer to the UN Trafficking Protocol as the first document to tackle trafficking, see for instance Crown Prosecution Service, *Human Trafficking, Smuggling and Slavery*, retrieved 1 August 2016 [http://www.cps.gov.uk/legal/h\\_to\\_k/human\\_trafficking\\_and\\_smuggling/](http://www.cps.gov.uk/legal/h_to_k/human_trafficking_and_smuggling/).

<sup>2</sup> J Doezema, ‘Loose Women or Lost Women? The re-emergence of the myth of “white slavery” in contemporary discourses of “trafficking in women”’, *Gender Issues*, vol. 18, no. 1, 2000, pp. 23–50; and *Sex Slaves and Discourse Masters – The construction of trafficking*, Zed Books, London, 2010; J Scoular and V Munro, ‘Harm, Vulnerability, and Citizenship: Constitutional concerns in the criminalization of contemporary sex work’ in R Duff *et al.* (eds.), *The Constitution of the Criminal Law*, Oxford University Press, Oxford, 2013; J Scoular, *The Subject of Prostitution: Sex work, law, and social theory*, Routledge, London, 2015.

## Defining White Slavery

In 1881, a Select Committee of the House of Lords was established to conduct an inquiry on the Law Relating to the Protection of Young Girls, with a particular focus on traffic in women from, and to a lesser extent to, England. It was founded following Alfred Dyer's scandalous account of traffic in English girls to European brothels called *The European Slave Trade in English Girls*.<sup>3</sup> Dyer and various public officials gave testimony to the Select Committee. In their testimonies, public officials one after another disputed traffic in 'innocent girls' and testified that the English girls who had travelled to Belgium and France to work in *maisons de débauche* did so willingly, but were often deceived or unhappy with the working conditions on arrival and then moved to another house or remained working in conditions that were exploitative.<sup>4</sup> However, neither Scotland Yard nor the London Metropolitan Police perceived white slavery or forced prostitution as a problem. Scotland Yard found isolated cases of exploitation but no evidence of systematic traffic in women.<sup>5</sup> Similarly, Sir Edward Ridley Colborne Bradford, the then head of London Police, argued that 'genuine cases are few far and in between'.<sup>6</sup>

In 1912 at the height of the second wave of white slavery hysteria, Teresa Billington-Greig, the founder of the Women's Freedom League, analysed crime reports and contested the existence of white slavery. She published her findings in 'The Truth about White Slavery' where she described the narrative of white slavery as:

... unwilling, innocent girls were forcibly trapped; that by drugs, by false message, by feigned sickness, by offers of or requests for help and assistance, girls were spirited away and never heard of again; that these missing girls, often quite young children, were carried off to flats and houses of ill-fame, there outraged and beaten, and finally transported abroad to foreign brothels under the control of large vice syndicates.<sup>7</sup>

<sup>3</sup> A Dyer, *The European Slave Trade in English Girls*, Dyer Brothers, London, 1881.

<sup>4</sup> Report, Select Committee of the House of Lords.

<sup>5</sup> New Scotland Yard, 'Return Cases of Alleged Procuring of Young Women to Become Prostitutes by Foreigner', 9 April 1903, London National Archives (NA) Home Office Papers (HO) HO 144/535/A48032/148.

<sup>6</sup> Letter, Sir Edward Ridley Colborne Bradford to the Under Secretary of State, 10 June 1901, NA HO 144/535/A48032/1-48.

<sup>7</sup> T Billington-Greig, 'The Truth about White Slavery', *The English Review*, June, 1913, pp. 425—428.

The dominant white slavery discourse, as highlighted by Billington-Greig, was largely constructed around the crude juxtaposition of dangerous, foreign men and innocent, white women. The similarities with modern-day anti-trafficking rhetoric are striking.<sup>8</sup> Both narratives, particularly in popular culture and the media, toy with details of innocence and ruin of the victim, coupled with the demonisation of foreign men. Victimhood in the white slavery discourse was constructed not only in terms of gender and class but also race. Anxieties about race, nationality and immigration underpinned much of the debate on trafficking. Race was both explicit and implied in the white slavery discourse. It was not until 1921 when the League of Nations International Convention to Combat the Traffic in Women and Children replaced the term ‘white slavery’ with the racially neutral ‘traffic’ in international law.<sup>9</sup> References and comparisons to transatlantic slavery were frequent in the campaigns to end trafficking on all sides. Campaigners of women’s rights and evangelical vigilance toyed with the ‘racialized metaphor’ of white slavery from the beginning of the movement.<sup>10</sup> Dyer had called white slavery ‘more cruel and revolting than negro servitude’ as it was directed at women.<sup>11</sup> As Ann Irwin has argued, in the white slavery discourse ‘the degraded black slave was replaced by the demoralized white woman’.<sup>12</sup> Furthermore, the association of race and slavery had a shock factor, and allowed white slavery to be discussed in a moral vacuum as a concept of its own that was separate from other forms of servitude and labour exploitation.

It would be wrong, however, to state that whiteness was only construed in biological and explicit terms in the discourse. Whiteness was rooted beyond race—in class, nationality, and perceived purity. Prostitution was viewed by many vigilance campaigners as demeaning and de-whitening. Stories of English prostitutes who

<sup>8</sup> Doezema, ‘Loose Women or Lost Women?’; Doezema, *Sex Slaves and Discourse Masters*.

<sup>9</sup> The League of Nations issued a Covenant on 29 April 1919 that the League of Nations was to oversee the international movement and legislation against traffic in women and children. According to Article 23(c) of the League of Nations Covenant, the League were to have ‘general supervision over the execution of all agreements with regard to the traffic in women and children’, but no general guidelines were issued as to how this consolidation was to happen or what the specific powers of the League of Nations were on this issue. The League of Nations passed the International Convention to Combat the Traffic in Women and Children in 1921—the main function of the Convention was to amplify and strengthen the 1904 Agreement and the 1910 Convention discussed in a later section. International Bureau, ‘Traffic in Women and Children’, WL 4/NVA S107-134 FL110.

<sup>10</sup> R Attwood, ‘Vice Beyond the Pale: Representing “white slavery” in Britain, c.1880 – 1912’, Thesis, UCL, 2013.

<sup>11</sup> Dyer, p. 4.

<sup>12</sup> M A Irwin, ‘“White Slavery” as Metaphor—Anatomy of a moral panic’, *Ex Post Facto: The History Journal*, vol. V, 1996.

had non-white clients or boyfriends were told with particular horror and disdain. The NVA went so far as to state that the ‘cheapening of white womanhood is one of the worst features of White Slave Traffic’<sup>13</sup> and that the ‘cheapening’ of white women in this manner ‘must result [in] some cheapening of prestige’ of the British Empire.<sup>14</sup> The whiteness in the white slavery discourse was thus more than a term of biology; it was a way to determine purity and patriotism.

### Creating the Foundation for Anti-Trafficking Laws

The campaigns against white slavery culminated in a rally in Hyde Park, London, in August 1885, when tens of thousands of people demanded that white slavery be outlawed and the age of consent for girls be raised. This section introduces the key legal interventions enacted during 1885–1905, beginning with the Criminal Law Amendment Act 1885 (CLAA 1885). Furthermore, it will show that for the purposes of trafficking, the CLAA created two tropes of victimhood: that of the innocent woman procured and that of the drugged/detained prostitute. Both of these tropes proved unworkable in courts.

The measure that was adopted first was the CLAA 1885. The House of Lords Select Committee had already recommended changes to the law in 1881 in relation to white slavery, but it took a number of bills before the CLAA was finally enacted.<sup>15</sup> Hysteria around another scandalous reportage on child prostitution in London<sup>16</sup> forced Parliament to respond and enact the CLAA 1885. The Act did not mark a great departure from the earlier bills. Section 5 of the Act raised the age of consent from thirteen to sixteen for girls as demanded by the public. Controversially, the Act also outlawed brothel keeping and procurement of women for prostitution. The CLAA 1885 and 1912 have been examined at length in relation to the age of consent and the suppression of brothels.<sup>17</sup> The following therefore focuses on the creation of the legal definition of the victim of trafficking.<sup>18</sup>

<sup>13</sup> National Vigilance Association (NVA), *In the Grip of the White Slave Trader*, NVA, London, 1911, p. 65.

<sup>14</sup> *Ibid.*

<sup>15</sup> Report, Select Committee of the House of Lords.

<sup>16</sup> W T Stead, ‘The Maiden Tribute of Modern Babylon I’, *Pall Mall Gazette*, 6 July 1885.

<sup>17</sup> J Laite, *Common Prostitutes and Ordinary Citizens: Commercial sex in London 1885–1960*, Palgrave Macmillan, London, 2012, pp. 54–69; P Bartley, *Prostitution: Prevention and reform in England, 1860–1914*, Routledge, London, 2012, pp. 155–178.

<sup>18</sup> Lucy Bland, Julia Laite and Judith Walkowitz have analysed the Criminal Law Amendment Act 1885 in the context of regulation of prostitution. See in particular: L Bland, *Banishing the Beast: Feminism, sex and morality*, Tauris Parke, London, 2001;

The CLAA 1885 was significant for creating a definition of a trafficked girl—the involuntary prostitute—and a distinction between the innocent victim and the criminal prostitute. Yet, the definition was incidental to the main focus of the legislation. Little attention was given to this historic definition in parliamentary debates on CLA bills 1883, 1884 and 1885. The Lords focused more on the lack of safeguards against malicious prosecutions that men might be subjected to and many felt the 1884 bill was overstepping the boundaries of criminal law.<sup>19</sup> Lord Oranmore and Brown said that he ‘believed that there were very few of their Lordships who had not, when young men, been guilty of immorality’.<sup>20</sup> To ensure men could not be blackmailed, the final CLAA bill was amended so it only applied to women ‘who were not being a common prostitute, or of known immoral character’.

Section 2(1) of the CLAA 1885 states that it is a misdemeanour to procure or attempt to procure ‘any girl or woman under twenty-one years of age, not being a common prostitute, or of known immoral character, to have unlawful carnal connexion, either within or without the Queen’s dominions’. By including the words ‘not being a common prostitute, or of known immoral character, the section excluded from the scope of the law not only those working in prostitution but also any women considered promiscuous or unrespectable. Simultaneously, the section marked the beginning of the legal distinction between the deserving innocent victim and the ‘common prostitute’. The definition of a ‘common prostitute’ was not provided in the legislation and so she was implicitly defined in juxtaposition to the innocent victim as immoral and responsible for her procurement. However, any woman, including a prostitute, could be procured under section 3(3) by a person who:

Applies, administers to, or causes to be taken by any woman or girl any drug, matter, or thing, with intent to stupefy or overpower so as thereby to enable any person to have unlawful carnal connexion with such woman or girl.

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J Laite, *Common Prostitutes and Ordinary Citizens*; J Walkowitz, *Prostitution and Victorian Society – Women, class and the state*, Cambridge University Press, Cambridge, 1980. Frank Mort, Jeffrey Weeks and Edward Bristow have analysed it in the context of sexuality and vigilance. See in particular: J Weeks, *Sex, Politics and Society – The regulation of sexuality since 1800*, 3<sup>rd</sup> edition, Pearson, London, 2012, and E Bristow, *Vice and Vigilance – Purity movements in England since 1700*, Gill and Macmillan, Dublin, 1977.

<sup>19</sup> House of Lords Debate, 18 June 1883, second reading.

<sup>20</sup> House of Lords Debate, 24 June 1884.

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The wording of the section creates another powerful image: that of a woman who is drugged and then violently carried away. The subsequent subsections outlawed domestic and international trafficking by making it an offence to procure a woman or girl for the purpose of prostitution abroad or within the UK.<sup>21</sup> However, if a woman was already living in a brothel, she could not be procured or trafficked, reinforcing the division between prostitutes and victims. In a number of ways, then, the Act created a distinction between virtuous virgins who embodied social purity, and *the Other*—the common and immoral prostitute.

Despite the high-profile nature of the CLAA, there were few prosecutions under the trafficking provisions. The prosecutions were widely reported in local, and at times national, newspapers. These reports provide insights into the enforcement of the Act. The cases reveal a complex picture of prostitution, consent and exploitation. The prosecution of Louisa Hart was a case where the boundaries between the procurer and the victim became blurred. Hart was convicted for criminally procuring young girls to be assaulted by an unknown man, or men. In court, she claimed that the girls in question were not procured but had already been working as prostitutes, and she was simply allowing them to use her premises for what was a voluntary vocation. Furthermore, Hart claimed she thought they were both aged sixteen and above, emphasising the age of consent. It was later proven that the girls in question were twelve and thirteen respectively and both refuted Hart's claim that they were engaged in prostitution prior to meeting her. Hart was convicted and sentenced to five years' imprisonment with hard labour. She was only twenty-one at the time of the conviction. In her testimony, she claimed to have been married off when she herself was only fifteen. Hart implied she had been working as a prostitute ever since and under the influence, if not coercion, of her husband. Hart was the only person on trial, and on sentencing the court did not consider her background, age, or the influence of her husband.<sup>22</sup>

Cases such as that of Hart show a far more complex reality than that which was envisaged by the lawmakers and reformers. The juxtaposition of the innocent victim and criminal prostitute created by the law did not conform to the reality of women who were arrested under the Act. As demonstrated above, it had two victim tropes: that of the innocent woman procured under section 2 and that of the drugged/detained prostitute under section 3. Women such as Hart did not fit into these tightly defined categories, making them a target of these laws.

<sup>21</sup> Sections 2(3), (4) CLAA 1885 respectively.

<sup>22</sup> *Morning Post*, 10 March 1886.



## Vigilance Associations' Action in the National and International Sphere

Vigilance associations, founded on moral-purity ideals, played an integral part in the lobbying for and later enforcement of white slavery laws both in England and Europe, none more so than the NVA and its international arm, the International Bureau for the Suppression of the White Slave Traffic (International Bureau).<sup>23</sup> The International Bureau was involved in the drafting process of the international agreements against white slavery, namely the Agreement for the Suppression of the 'White Slave Traffic' 1904 (the 1904 Agreement) and the International Convention for the Suppression of the White Slave Traffic 1910 (the Convention), and the NVA was in charge of their domestic enforcement.<sup>24</sup> The London Conference of the International Bureau in 1899 set in motion the drafting of the international accords. The resolutions show that the International Bureau intended to focus on law reform campaigning from the beginning, and as such embraced cooperation with the state. A key resolution adopted by the first International Congress held in 1899 puts forward a draft international agreement that includes articles for the criminalisation of procurement and traffic, as well as measures for border/port control.<sup>25</sup>

The resolution gives a clear indication of the aims and organisational ethos of the International Bureau, both in terms of the scope of the legislation and their role in the process. The aim of the organisation was to lobby for international legislation in the field of trafficking, in an era when international treaty law was still in its early days. The resolution is also a clear indication of the International Bureau's relationship with the state. It had taken on drafting legislation without the involvement of state bodies in the process. The role of the charitable and civil society organisations in the enforcement of the treaty is also cemented in the draft proposal. The resolution designates these organisations—not the state officials—as bodies responsible for border control. The resolution also implies that the monitoring of points of entry is the responsibility of the charitable organisations in order to 'protect emigrants on their arrival' and to share information 'as to the emigration of women under suspicious circumstances'.<sup>26</sup> The national committees of the International Bureau were established in various countries around the world

<sup>23</sup> Various National Vigilance Association (NVA) collections, Women's Library Archives at London School of Economics (WL) WL 4/IBA.

<sup>24</sup> For a full discussion on the enactment of the accords, see S Limoncelli, *The Politics of Trafficking – The first international movement to combat the sexual exploitation of women*, Stanford University Press, Stanford, 2010.

<sup>25</sup> Minutes of the International Congress on the White Slave Traffic, Westminster Palace Hotel, London 21 and 23 June 1899, WL 4/IBA Box FL 192.

<sup>26</sup> *Ibid.*

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and they were already engaging in this task without formal agreements with the state. The committees reported on regular intervals back to the London headquarters on the progress and for example, on how many women they had interviewed. They monitored and reported back to the International Bureau on levels of suspected traffic and prostitution through patrolling railway stations and ports where they greeted girls suspected of being a 'white slave', or indeed a foreign prostitute. While the most oppressive aspects of the white slavery agreement, such as the repatriation of foreign prostitutes, were not part of the early resolutions, the national committees provided funds and campaigned for the repatriation of foreign prostitutes even prior to the ratification of the 1904 Agreement.<sup>27</sup>

In England, the NVA had secured a quasi-governmental position ahead of the ratification of the 1904 Agreement. The NVA had suggested to Akers-Douglas, the then Home Secretary, that 'the International Bureau shall be responsible for all information forwarded to Scotland Yard, and shall be acknowledged by them as the medium of official communication'. They argued that nominating the International Bureau for this task would 'be in the interest of the work and the authorities'.<sup>28</sup> All their proposals were accepted by Akers-Douglas, and the International Bureau/NVA were given a trial of six months to monitor ports and railway stations. Akers-Douglas welcomed the assistance of the organisations and agreed that they were 'in the best position' to take on its enforcement.<sup>29</sup> When the Agreement was formalised and came into force, the International Bureau/NVA had already received powers to question migrant women both at points of arrival and when in custody, and ultimately to deport them.

Controlling immigration soon became the focus of anti-white slavery efforts. In the early years, and around the Belgium scandal described by Dyer, the focus had been on preserving the purity of English girls. At the beginning of the twentieth century that focus had shifted from protection of girls to protecting the state and society from the threat posed by foreign girls. This was partially enabled by the introduction of the first formal restrictions on immigration under the Aliens Act 1905. The 1905 Act was carried through by anti-Jewish sentiment and agitation and it marked a radical change and the beginning of systematic immigration control in Britain.<sup>30</sup> The Act was not directed at women—prostitutes or otherwise. Rather, it was directed first and foremost against the Jewish immigrants from Eastern Europe, and it was carried through by xenophobic, mainly anti-Jewish, sentiment

<sup>27</sup> Minutes of the International Congress on the White Slave Traffic, London, June 1899–July 1904, WL 4/IBA Box FL 192.

<sup>28</sup> Minutes of Deputation, 20 March 1903, NA HO 144/535/A48032/1-48.

<sup>29</sup> *Ibid.*

<sup>30</sup> R Attwood, 'Vice Beyond the Pale'.

and agitation.<sup>31</sup> Yet, the regulation of female immigration, and particularly that of the ‘prostitute class’, as the Home Secretary put it, was enabled by this law.<sup>32</sup> Despite its anti-Semitic origins, the Act had a profound impact on foreign women working in prostitution. It set in place the framework for immigration control that in the following years was tightened, particularly in relation to foreign prostitutes. These domestic laws, together with the international white slavery agreements, created complex powers of surveillance and repatriation over foreign women suspected of prostitution.

The Aliens Act 1905 allowed for the newly established immigration officer to inspect ships and question immigrants to ascertain whether they were of the ‘undesirable’ kind.<sup>33</sup> It also allowed for an expulsion of those convicted of an offence for which the court had the option to impose imprisonment without the option of a fine. The exception to this was prostitution; if convicted of offences related to prostitution, the court should recommend that an expulsion order be made ‘in addition to or in lieu’ of the sentence.<sup>34</sup> In relation to foreign-born women suspected of prostitution, the Act was used together with prostitution legislation, mainly the Vagrancy Act, to deport women.<sup>35</sup> The white slavery accords enabled police surveillance of women suspected of being prostitutes under the premise of white slavery. Their steps were traced from their morning coffees to meetings with clients, then occasional meetings with suspected ‘procurers’ or ‘white slavers’. But most of the case law shows that it was again women, rather than the suspected ‘white slavers’, who found themselves on trial, often waiting for deportation.<sup>36</sup>

## Conclusion: Legacies of the white slavery laws

The legacies of white slavery legislation at the turn of the twentieth century are inescapable in the present day. The language of slavery has entered the public and legal discourse again, the debates on criminalisation are as divisive as they ever were, and legal responses to trafficking are arguably even more invasive than they were at the height of white slavery hysteria in the early twentieth century. In the UK, there has been a plethora of legislation in the field of trafficking in recent years, including a dedicated Modern Slavery Act 2015. Yet, the legal framework remains complex

<sup>31</sup> B Gainer, *The Alien Invasion – The Origins of the Aliens Act of 1905*, Heinemann, London, 1972; D Glover, *Literature, Immigration, and Diaspora in Fin-de-Siècle England – A cultural history of the 1905 Aliens Act*, Cambridge University Press, Cambridge, 2012.

<sup>32</sup> House of Commons Debate, 29 March 1904.

<sup>33</sup> Section 1 of the Aliens Act 1905.

<sup>34</sup> Section 3(1)(a) of the Aliens Act 1905.

<sup>35</sup> Metropolitan Police (MEPO) Archives; NA MEPO 3/197.

<sup>36</sup> *Ibid.*

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and fragmented. While acknowledging that the discourse has evolved and shifted, the *legal* legacies have remained remarkably static. Theresa May chose fighting the ‘evil’ of modern slavery as one of her first challenges as Prime Minister.<sup>37</sup> As Home Secretary she often spoke of the issue,<sup>38</sup> and introduced the Modern Slavery Act 2015: a law that has been accused by Anti-Slavery International of prioritising criminalisation over prevention or protection.<sup>39</sup> During her time as the Home Secretary, the Home Office also introduced anti-trafficking measures that allowed for questioning of young women in their home countries before they even attempt to migrate.<sup>40</sup> Furthermore, the Salvation Army, a Christian non-profit organisation that was active in the field at the turn of the twentieth century, now operates as the main government contractor providing victim assistance services. In the present-day, the term ‘modern slavery’ is commonly used in the UK as an overarching term to describe human trafficking, forced labour, debt bondage and child labour. While ‘modern slavery’ implies the offence is a new one, the legal and policy responses adopted today are remarkably similar to those adopted at the turn of the twentieth century.

Legislation, policies and campaigns initiated in recent years have had a strong anti-immigration focus at their core. They show that anti-trafficking legislation is closely intertwined with immigration control, and overall, criminalisation of trafficking is interlinked with criminalisation and fears of immigration. In a world of nation states and immigration control, underpinned by racism and xenophobia, it is nearly impossible for many people to cross borders without facilitators. Many migrants resort to illegal means of travel and some of them are deceived or abused in the process of migration or on arrival. Nandita Sharma has argued that they ‘are victimized by border control practices and the ideologies of racism, sexism, and nationalism that render *unspectacular* their everyday experience of oppression and exploitation’.<sup>41</sup> She further notes that the moral panic about trafficking ‘serves to legitimize increasingly regressive state practices of immigration control’.<sup>42</sup> The rhetoric of protection and female helplessness—similar to that utilised by vigilance associations at the turn of the twentieth century—has been once again utilised by

<sup>37</sup> ‘Modern Slavery: Theresa May vows to defeat “evil”’, *BBC*, 31 July 2016.

<sup>38</sup> Editorial, ‘Theresa May Makes Modern Slavery her “Personal Priority”’, *The Guardian*, 24 November 2013.

<sup>39</sup> Anti-Slavery International and Anti-Trafficking Monitoring Group, ‘Big Step in the Right Direction but Deficiencies Leave Us – and Victims of Modern Slavery – Wholly Unsatisfied’, retrieved 1 August 2016, <https://www.antislavery.org/analysis-modern-slavery-act/>.

<sup>40</sup> HM Government, ‘Human Trafficking: The Government’s strategy’, 19 July 2011, chapter 5.

<sup>41</sup> N Sharma, ‘Anti-trafficking Rhetoric and the Making of a Global Apartheid’, *NWSA Journal*, vol. 17, no. 3, 2005, pp. 88–111, emphasis original.

<sup>42</sup> *Ibid.*

states through the anti-trafficking rhetoric to promote border control. For example, the 2011 Human Trafficking Strategy gave the then UK Border Agency powers to interrogate and detain female migrants both in their home countries and at points of entry into the UK.<sup>43</sup> The strategy states that this action is ‘enhanced ability to act early, before the harm has reached the UK’, implying that it is the UK that needs to be protected from the threat posed by the trafficked persons. This strategy is not new, nor are the powers it has given unprecedented. The section on the early twentieth century White Slavery Agreement and the domestic Aliens legislation showed that these are the exact tactics that were utilised by the vigilance campaigners who were given the powers to question and detain women at ports of entry into the United Kingdom.

The difficulty in defining victimhood and understanding vulnerability that was highlighted in the first part of this article continues to the present day, especially in court cases. The ideal victim trope that strongly echoes the CLAA construction of victimhood has been persistent in trafficking cases, particularly in relation to historical victims. A historical victim is someone who has been a victim of trafficking in the past but is not considered to be one at the moment of determination. In the cases of historical victims or in cases of trafficked persons exercising a level of control over their lives, the courts have arguably failed to adequately acknowledge exploitation and its impact.<sup>44</sup> Instead, the trafficked persons have been held liable for the crimes they have committed while living in exploitative circumstances. In these cases, the relative control and active subjectivity have transformed the trafficked persons from victims into perpetrators. They have been marginalised by the very laws that were set out to protect them, echoing the case of Hart discussed in relation to the similar failures of the CLAA.

In conclusion, this paper has shown how key elements of anti-trafficking legislation were put in place already between 1885 and 1905. While parallels between white slavery and modern trafficking discourse have been drawn before, this paper has shown that the legal foundations for current anti-trafficking laws were created at the peak of white slavery hysteria. Although these laws were responding to white slavery campaigns, the lives of all women who would today be described as migrants and sex workers came under deeper control with every new legal intervention. The legislation did not, and could not, provide protection against the exploitation of women within prostitution and otherwise, as it focused on procurement and immigration entry points and loss of innocence rather than

<sup>43</sup> HM Government, ‘Human Trafficking: The Government’s Strategy’.

<sup>44</sup> See for example: *R v O* [2008] EWCA Crim 2835; *R v LM* [2010] EWCA Crim 2327 ; *R v N* and *R v Le* [2012] EWCA Crim 189.

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continuing acts of exploitation. It framed white slavery as a matter of criminal or immigration law, but did not acknowledge the wider structural factors behind female poverty and inequality—much like present-day anti-trafficking initiatives.

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