

Modern slave or illegal worker? The haze around modern slavery and its implications

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*The Modern Slavery Act 2015 has been far from a solution to the problem of worker exploitation. **Candice Morgan** explains how the Act is flawed in its application, and why much of the ineffectiveness comes down to how 'modern slavery' is being represented.*



When you hear the term 'modern slavery', what's the first thing that comes to mind? Sex-workers? Domestic workers? The women diligently washing your hands in preparation for your weekly manicure? Or the man who valeted your car at the weekend? Our perception of modern slavery has been corrupted by our media and contorted by our legislation.

In light of the [recent report](#) from Her Majesty's Inspector of Constabulary (HMIC), 'Stolen freedom: the policing response to modern slavery and human trafficking', now is the time to seriously address the discussion as to how we view modern slavery, and how this aligns, or conflicts, with the current legislation surrounding the term.

The report criticises police responses to modern slavery in England and Wales, labelling them inconsistent "with poor outcomes for many victims." It concludes that the [Modern Slavery Act 2015](#) "has not yet led to significant improvements in the police's response" citing such failings as:

- Limited use of the new powers provided by the MSA (particularly the use of Modern Slavery Risk Orders);
- Lack of training/ understanding of the indicators of modern slavery;
- Not informing identified potential victims of their rights to support;
- Low levels of criminal recording of suspected modern slavery offences.

These should be worrying conclusions for a government who, through the Act, largely a [law enforcement](#) instrument, is reliant on victim rescue, and perpetrator prosecution to end what they deem 'modern slavery'.

Sensationalist (mis)representation?

One problem with the representation of modern slavery is a pre-occupation with its construction as a unique and identifiable abuse perpetrated by force, coercion, and control. The legacy of the abolition of slavery and the slave trade has been utilised disingenuously to create a perceived parallel abuse. The images used to illustrate the issue generally involve [bound and shackled disembodied limbs](#), [faces with mouths obstructed](#) and [depictions of implied pain post abuse](#). These are clearly emotive images, designed to shock and raise awareness. But are they truly representative of the nuances held within this term?

Modern slavery is typically represented as an extreme form of abuse where agency and decision-making are subordinated by an external individual or individuals. People exhibiting agency, are unwilling or unable to conform to these ideals of victimhood, rather than being defined as 'modern slaves', become exploited workers, immigration offenders, or criminals. It is this dichotomy that police forces are grappling with; who is a modern slave and who is exploited?



Credit: Pixabay/Public Domain.

'Hostile environments'

Cases where a person is subject to immigration controls are particularly problematic. The HMIC report identified that undocumented persons were being referred to immigration services in lieu of an investigation into their suspected modern slavery. It acknowledged that law enforcement officers had a duty to refer individuals to immigration authorities, yet later asserted that "the vulnerability of victims should be considered in parallel."

However, it was revealed earlier this year that victims of undocumented status reporting crimes in the London Metropolitan area were having their details passed to immigration services. This is not an environment that fosters engagement with the policing authorities. Instead, it leads to a distrust of the motives of 'law protectors', producing barriers to reporting exploitation and seeking assistance.

The Modern Slavery Act is also a product of a government that has been increasingly focused on reducing net migration, creating 'hostile environments' framed around disadvantaging undocumented persons (but impacting on wider society), and constructing the rhetorical figure of the 'migrant' as a burden on societal resources and the labour market.

While the Act was debated and being implemented, two Immigration Acts (2014 and 2016) were introduced, both focusing on making life more challenging for the irregular person, criminalising illegal working and employing illegal workers. This creates

environments where undocumented persons become more dependent on others and are therefore vulnerable to exploitative situations, such as those deemed ‘modern slavery’. Within the 2013 Draft Modern Slavery Bill Foreword, the then Home Secretary Theresa May explicitly tried to disassociate modern slavery from immigration: ‘For years modern slavery has been associated with immigration crime. I have sought to change this perception.’

Constructing modern slavery apart from immigration allows the creation of two separate categories of people: the modern slave needing rescue and protection, and the irregular person/illegal worker requiring arrest and punishment.

‘Modern slave’ or illegal worker?

The distinction between the modern slave and illegal worker is particularly hazy. Consider the National Crime Agency’s current campaign around spotting the signs of modern slavery. The fishing industry, car washes and nail bars have all been named as places where modern slavery and labour exploitation occurs. Yet it is also in these low paid, quasi-informal sectors where the undocumented worker is identified.

In November/December 2016 ‘Operation Magnify’ focused on identifying ‘illegal workers’ in ‘at risk industries.’ They visited 280 nail bars in the UK, in which 97 undocumented workers were removed from the businesses, of which 14 were identified as potential modern slaves and offered support. The remaining 83, if they did not have the right to remain, were processed for removal. Commenting on the operation the then Immigration Minister Robert Goodwill stated that the Modern Slavery Act had given the law enforcement agencies the tools they needed to increase victim support and protection, while simultaneously stating the Immigration Act ‘*introduced strong measures*’ to tackle illegal working. This example highlights the problem around the strict differentiation between the ‘modern slave’ and ‘illegal worker,’ and the shared space of exploitation in which they are identified.

Clearing the haze

Overall, the recent HMIC report highlights the flaws in the application of the Modern Slavery Act. But, as explained the failures are more nuanced than a lack of training and identification of a crime, particularly when immigration status is a factor. There is a need to take a step back and consider if the representation of ‘modern slavery’ in the Modern Slavery Act itself, and in surrounding rhetoric could be the problem.

Police and immigration officers are being presented with two separate agendas: on the one hand, ‘hostile environments’ and the removal and deportation of the undocumented person; on the other, the identification and rescue of the ‘modern slave’. There seems to be a complete disconnect in relation to the prospect that those exploiting the ‘modern slave’ are able to do so because of the hostility towards the rhetorical ‘migrant’.

Candice Morgan is a Doctorate of Social Science student in the School of Policy Studies, and Research Associate in the School of Sociology, Politics and International Studies at the University of Bristol.



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