



HOUSES OF PARLIAMENT

Joint Committee on Draft Modern Slavery Bill

Oral evidence: [Draft Modern Slavery Bill](#), HC [1019], Thursday
27 February 2014

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Members present: Mr Frank Field (Chairman), Baroness Butler-Sloss, The Lord Bishop of Derby, Baroness Doocey, Baroness Hanham, Lord McColl of Dulwich, Lord Warner, Fiona Bruce, Michael Connarty, Fiona Mactaggart, Sir John Randall, Mrs Caroline Spelman and Sir Andrew Stunell

Questions [709-824]

Witnesses (via video link): **Andrew Forrest**, Chairman, Minderoo Foundation, and **Fiona David**, Executive Director of Global Research, Walk Free Foundation, examined.

Q709 Chairman: Andrew, hello.

Andrew Forrest: Good morning. Can you hear me okay?

Chairman: We can hear you. Can you hear us, Andrew?

Andrew Forrest: Very clearly, thank you.

Chairman: Andrew, might you just identify yourself for the record? Then we will introduce ourselves so you can see which Members of Parliament we have here.

Andrew Forrest: Excellent. My name is Andrew Forrest. I am the chairman of the Minderoo Foundation and the Fortescue Metals Group. The Minderoo Foundation is Australia's largest charitable group and human rights organisation. We are delighted to be here. I have with me Fiona David, who is Australia's foremost illegal immigration expert and a key member of the Minderoo Walk Free team.

Q710 Chairman: Michael, might you begin and we will go round the Committee?

Michael Connarty: Hello, Andrew. We met before. I met you when you came to London a couple of months ago. I think you got a copy of my Bill.

Andrew Forrest: Good day, Michael.

Michael Connarty: I am Michael Connarty, a Member of Parliament from a Scottish constituency in the UK Parliament.

Mrs Spelman: Hello, Andrew. I am Caroline Spelman. We met in Davos when you gave the presentation of your global slavery index. I am Member of Parliament for Meriden.

Andrew Forrest: We sat very close together and you made a number of great points. I remember you well and I am still grateful.

Mrs Spelman: Thank you.

Sir John Randall: Hello. I am John Randall, the Member of Parliament for Uxbridge, which is just at the edge of London.

Andrew Forrest: Hello.

Baroness Hanham: I am Joan Hanham. I am a Member of the House of Lords and a member of this Committee.

Andrew Forrest: Good morning. Can I ask you to bring that microphone a little closer to you, madam? You were the only one who was faint.

Baroness Hanham: Would you like me to start again?

Andrew Forrest: Yes, please.

Baroness Hanham: I am Joan Hanham. I am a Member of the House of Lords and I am a member of this Committee today.

Lord McColl of Dulwich: Hello. I am Ian McColl. I am a Member of the House of Lords and I have been interested in this subject for the last 10 years.

Andrew Forrest: Very good morning.

Sir Andrew Stunell: I am Andrew Stunell. I am a Member of Parliament from the north-west of England.

Andrew Forrest: Good morning.

Lord Warner: Hello, Andrew. I am Norman Warner. I am a Labour Member of the House of Lords.

Andrew Forrest: Good morning.

Chairman: Andrew, that is our team. We will begin, if we may, with questions from John.

Q711 Sir John Randall: Andrew, in your written evidence you said that you would like to see the role of the Anti-Slavery Commissioner extended to work with businesses. How do you think the Anti-Slavery Commissioner could do this? How do you think they could start the process and do you think they should concentrate on certain sectors or certain sizes of business?

Andrew Forrest: That is a really terrific question. The reason why that is in there is that after I became committed to ending slavery, after a severe incident where my daughter came very close to human trafficking, I began to search my own supply chains for slavery. We have around 3,000 suppliers. I found counts of slavery in many areas, which absolutely shocked me, but far and away the worst slavery incident we discovered was in the middle east, with a large British plc who were involved in the enslavement of thousands of people—not directly. When I rang the chief executive, I chose to believe him that this was not with his knowledge, and I have kept the name of the plc and the chief executive confidential because they were exemplary in their behaviour to clean up their act, so to speak, to return the passports and repay all their workers who had not been paid for some years. It was incredibly effective. If you had sent, say, the British police into an area like the middle east it would have taken an extraordinary amount of time; it would have involved high-level diplomatic negotiations and it may or may not have happened at all. By that stage, most likely the criminals would have moved on. We were able to act instantly because it was business to business. That is why I just know that the power of business to end slavery is incredibly effective and probably more powerful than the normal regulatory or criminal measures. How you would engage, as your commission, businesses, very similar to the California [*Interruption to video link.*]

Q712 Sir John Randall: I am trying to think where you had got to. You were talking about business to business being the way that it is done now, and what we were looking at—the Californian model.

Andrew Forrest: Yes, thank you, so quite recent. I apologise for the interruption.

The Californian model was quite thoroughly debated, but I would like to introduce, if I could, our expert Fiona David. Fiona, would you mind also giving your input to how, specifically, the British Government can engage with business to end slavery round the world?

Fiona David: Thank you, Andrew, and thank you to the Committee. My name is Fiona David. One of the key roles that the Anti-Slavery Commissioner could play is to bring the best of business together with civil society and Government and learn from stories such as Andrew's and Fortescue Metals on how they dealt with this issue. Many CEOs want to deal with the issue—they care very deeply about it—but they do not have the experience or know-how to do it. An Anti-Slavery Commissioner could start with something very simple, just like a round-table, and get the Government together with some leading businesses, to talk about best practices, share some examples and take it from there.

Andrew Forrest: We would be delighted to contribute and to share with British business leaders how we discovered slavery in our supply chains, how we discovered it was with a large, very respectable British company, how we believe the leadership of that British company, of course while being guilty, were innocent of doing anything deliberately towards slavery, and how they were then able to move very effectively with Walk Free to eliminate slavery in their supply chains. Being one of the major suppliers of particular products to companies around the world, if this had been discovered, say, by a human rights organisation looking to make a name for themselves, it would not have done British business any good reputationally. It would have impacted this particular company's business all around the world because they were supplying what they were supplying to FMG, my company, and many other companies. It is just a very live example. We then contracted a group called Verité and sent them in. Verité confirmed the passports had been confiscated, which is a typical clue that slavery may exist. Then they went further and inspected the warehouses and living accommodation and, of course, got testimony from the workers that they had not been paid for years and were forced to work hours that were inhuman, as a deliverer to this British plc.

Q713 Mrs Spelman: Andrew, you launched the global slavery risk index in October last year, so it is coming up for its first six-month update. What have you detected has been the impact of that risk index and what has the response to it been like?

Andrew Forrest: The global slavery index has been quite transformative on the entire anti-slavery and Government community who are concerned with slavery. There has never been a measurement

of slavery globally of this depth at any time, and certainly there has been no ranking of countries. We have found it a most useful index. It has led to Government engagement around the world, and it has certainly been the business card of credibility when we have done a great deal of work with the Vatican, Lambeth Palace, other religious organisations and very large corporations. They have all reached for the global slavery index to see where their country sits. They have questioned why their country sits—*[Interruption to video link.]*

Q714 Mrs Spelman: I think we got most of that, up to the point where you were talking about the reaction of church groups, big businesses, all looking to see where they are in the risk index. That is where we got to. Can you hear us, Andrew?

Andrew Forrest: Hello.

Mrs Spelman: We can hear you. Can you hear us?

Andrew Forrest: Now it is as clear as a bell. Apparently for the first 30 seconds it is like speaking through a jellyfish, but after that it is good.

Mrs Spelman: At least we did not get stung on the way. You were saying it has had the impact of getting church leaders and corporates to look up in the index where they all are. That is where we had got to in what you were saying.

Andrew Forrest: Yes. Clearly, we are bound by the strictest levels of confidentiality, but I can share this with you. We formed an agreement with the Anglican faith through the Archbishop of Canterbury and with the Catholic faith through the Holy Father, Pope Francis, and we are now reaching out to the Grand Imam of the Islamic faith, the al-Azhar al-Sharif, who is the Authority on the Koran. We are able to do these things because of the credibility of that global slavery index, which has ranked all the countries where their faiths are strongest or weakest. They can see very quickly where the Islamic faith may be, in some small way, looking the other way on slavery. But do not think it allows Christians off the hook. It does not. We have looked the other way for hundreds of years as well. It has led to concrete actions, a multi-page agreement, quite a sophisticated agreement, which has never been reached between the Anglicans and the Catholics since the Reformation, let alone with the Islamic faith as well. That has never happened at all. That has come about because those faith leaders, like massive corporate leaders, can look at the countries where they do business or where they have constituents and say, "Hey, this country is

not looking good,” or, “This country is looking really good.” That is thanks to the global slavery index.

Q715 Mrs Spelman: Having harnessed those spiritual leaders behind your risk index and the use of it, you showed us a video clip in Davos of various political leaders around the world giving you support for this, but I found it very difficult to obtain a copy of that to show the Committee. Is there some way that the clip you showed could be conveyed to us, the one that has on it Hilary Clinton, Angela Merkel, Tony Blair and Gordon Brown? Do you know the one I mean?

Andrew Forrest: No problem. I would be delighted with that. I think it is available off the website.

Mrs Spelman: I tried.

Andrew Forrest: On the Walk Free website, if you go into “media” and “videos,” it should be there, but may I arrange for you to get your own copy or an exact link as soon as possible?

Mrs Spelman: That would be great; thank you very much.

Andrew Forrest: I will have my colleague organise that immediately.

Q716 Michael Connarty: Andrew, it is great to hear you give us some support. You have suggested amending the Companies Act 2006 to include, I think you said, “identification and management of risks of modern slavery in supply chains” as a key performance indicator. We have taken quite a bit of evidence from lots of people about this question of mandatory versus voluntary codes. Would it be of benefit, for example, to go further in adopting legislation like the California Transparency in Supply Chains Bill or in fact the contents of my Bill, the Transparency in UK Company Supply Chains Bill? We had some evidence yesterday from Luis CdeBaca, the Ambassador-at-Large on human trafficking for the US Government, who took a very strong view of supporting mandatory legislation rather than just voluntary legislation. Do you think we should go as far as the Californians or beyond?

Andrew Forrest: Yes, I would like to think so. The great moves against slavery in history—I think we are on about our fourth wave—have all failed, starting with President Lincoln and one of the greatest Anglicans to have lived, William Wilberforce, and the like, but they did not have the global reach we have now. They did not have the ability to influence faiths, to influence corporations, and they did not have the leadership of the British Government. I would advocate that you bring in very concrete and clear legislation, but put a time limit on it. Let us

not have something which outlives its useful purpose. Let us, say, have a time limit of 10 years and have it reviewed at that point. We do not want to be covering companies with red tape. We have a massive issue of slavery now where we should act together to end it now. The Holy Father of Rome, Pope Francis—forgive the formal language—has set his team a target of five years. That is pretty ambitious. I would say bring in legislation which is tough legislation but have it only exist for 10 years and be reviewed at that point. I personally think we can defeat slavery if we act together on this, and act with decisiveness.

Q717 Lord Warner: Both Walk Free and CIPS have spoken of making supply chains “slavery proof.” How do you think this can be done, and does it require legislation to mandate the involvement of chairs, CEOs and so forth? You mentioned your approach. Should this be enshrined more in legislation to ensure that people co-operate with the system?

Andrew Forrest: Sir, I think that is a fabulous question. I know that every chief executive in Britain or in any advanced country, if they had had the experience we had with our daughter, would not need legislation to search out their own supply chains for slavery. However, they are not going to have had that experience. Mine was a rare experience. The only reason that we found slavery in our supply chains was that it was mandated to be searched for by the chairman. I said to my procurement team, of about 100 people who look after about 3,000 suppliers, “You will have slavery in your supply chains. Go and find it,” and they did. But without that leadership from the top, it just would not have happened, because procurement people are answerable to their chief procurement officer, who is answerable to their chief executive or chairman for quality, cost and time frames. If that is their only motivation, which seems reasonable in a reasonable world, they are simply going to miss slavery every time. So we have to add on an imperative, from the chairman down: “As slavery exists in at least 170 countries in the world”—and they can be assured it exists from every one of their suppliers and we need a chairman’s or chief executive’s prerogative to bring their authority down to that procurement team—“one of your key performance indicators will be the identification and elimination of slavery, because if it is discovered by someone else as opposed to the company itself, the ramifications reputationally and legally are enormous.” That needs to be met. That incentive from the chairman to pass on his or her prerogative to the procurement team I think does need legislation.

Q718 Lord Warner: A legislative nudge really to the very top, certainly for the bigger companies, would be the way forward.

Andrew Forrest: Sir, it will be the only way to make major change. If we try to do it just from the bottom up, we will not get that. The bottom-up approach, which CIPS and others you have spoken of are doing, now needs top-down as well.

Q719 Sir Andrew Stunell: We have talked a lot about the impact on companies. Can we turn to the impact on national economies? You have talked about the real impact that slavery has on economies. Could you say a bit about that and whether you think we can measure it in any way that can influence Government and opinions?

Andrew Forrest: Yes. What is missed by many commentators is that people are themselves a resource. It is not just natural resources or energy resources, and so on. People themselves are a great resource. Perhaps for blunt-instrument proof you can look at how completely unproductive China was only 40 years ago and how absolutely productive it is now. That fundamental shift happened because people were able to use their brains to become productive, not just their bodies. In slavery, you are just using someone for their body. If you can free them to also use their brains, they become much more productive units. Their will to move their circumstance absolutely multiplies, and that is a measurable economic benefit. Where you have advanced prosperous economies, you will get very little slavery. Look at your own country. Where you have very poor countries, you will find plenty of slavery. Let us look at Pakistan. Part of the reason that Pakistan has such a poor economy is that it has such a big slavery industry. They are unable to release those people to become consumption and production units themselves. They are just little machines, and that keeps the economy down.

Q720 Sir Andrew Stunell: That is a very strong theory. Do you think there is a way of measuring it, and that cause and effect and a few things like that come into play?

Andrew Forrest: There has been absolutely no economy which has not significantly improved when they have attacked slavery head on. There is country after country where there is raw proof of this. I used China not to say that China was enslaved—you would all have your views, and that is but one country—but to say that, if you release the people, extraordinary things happen because people's brains are a most tremendous resource. It can be measured economically; the Walk Free financial people are going about doing that, working with the Milken Institute. I would like them to reach out to the London School of Economics as well and just wrap an economic measurement around it so that the answers to great questions like yours, which are absolutely

valid, can be used to change the minds of our political leaders, who want to increase their economies and need to increase their tax base. You can do that by eliminating slavery.

Sir Andrew Stunell: Thank you very much.

Q721 Lord McColl of Dulwich: Your written evidence discusses knowledge dissemination and suggests that it is hampered by lack of resources, small budgets and so on. Is this a problem for businesses and Governments, and what is the effect on knowledge dissemination?

Andrew Forrest: One of the reasons, sir, why we encourage people to join the Chartered Institute of Purchasing and Supply—CIPS—is that information can be disseminated very cheaply and quickly over the internet. Once a key performance indicator is applied to the application of that knowledge by the chairman or chief executive—and, we are hoping, with your legislative encouragement—they become very effective. But if I have not answered your question completely, could I invite our expert Fiona David to also proffer an answer?

Fiona David: I am sorry, Andrew, I do not have anything further to add. I think your example of CIPS was excellent. That is one way we can increase knowledge dissemination. The Committee also asked about funding and whether there is an absence of funding. Our research suggests that the OECD, for example, spends less than \$100 million annually on human trafficking. If we compare this to the amount of money that is spent on, for example, very important HIV prevention and remediation, it is a tiny amount of money. Andrew, perhaps you could talk a little bit about the global fund, because that goes to the issue of funding.

Andrew Forrest: Okay. If you look at the comparable numbers between those with HIV/AIDS and those in slavery, you are beginning to line those numbers up. You can be assured, though, with slavery, as opposed to HIV/AIDS, that you are most likely to wreck a life with HIV/AIDS, but with the right treatment you can continue to live quite a high standard of life, but with slavery you know for certain you are absolutely going to wreck a life completely and that their ability to recover from it will never ever be complete. We see those two industries, one of which is massively funded and one which is not funded, as issues that the world is just beginning to get its head around.

To address this, part of the work of Walk Free—we are delighted that the British Government has waded into confronting this industry as well—is to agree with Governments around the world what the strategy is to fully prevent slavery on a permanent basis, to institutionalise the

eradication and removal of slavery for ever within their sovereign borders, within their economy. Once that is agreed, that country will or will not be able to afford it. Where there is a measurable budgetary gap between the will of the country and the ability of the country, it becomes part of a budget request to the global budget of the worldwide end of slavery fund.

Chairman: Could I bring Fiona in on this question as well?

Q722 Fiona Mactaggart: I am Fiona Mactaggart, Member of Parliament for Slough.

Andrew, I was listening to your answer to that, on the importance of the global slavery fund. One of the things you said which really struck me was that someone who has been enslaved can never recover completely. Do you think you could explain that to us? We are in a country which says it takes 45 days for someone to get over being a slave.

Andrew Forrest: I would like the author of that comment just to spend a day in the shoes of someone who is enslaved, be it in a brick kiln, a brothel or wherever, and see if they still think it would take 45 days. Then, of course, think about spending five to 10 or 15 years or a lifetime there. I would say that is, unfortunately, a very naive assessment.

Fiona Mactaggart: Thank you.

Q723 Lord McColl of Dulwich: On this whole business of getting people to believe what is going on, I find people will not believe that slavery is going on. They will not believe that one in three women in the world is abused physically. How do we get this over generally? People just shut their eyes to it.

Andrew Forrest: That is another superb question, but the very fact that such an esteemed group of leaders are concentrating on this subject right now in one of the great Parliaments of the world means that people are opening their eyes. If I look back to when my daughter Grace had the experience she had in Nepal when she was 15—she is now 20 and that is only five years—when we started there, sir, you could pick up the phone to anyone you liked and talk about slavery and they would literally want to put a thermometer in your mouth and wonder how ill you were because, “There is no slavery around.” But now, only five years later—I think the trajectory of knowledge is increasing and becoming steeper—people are beginning to accept that slavery does exist. I think in only one year’s time it will be very common knowledge that this is a huge and hideous industry, and must

be virulently and effectively opposed. I would just use the number of supporters in one of our five pillars—the Walk Free movement—which has grown from 0 to 1 million. It took us about 12 months. It has gone from 1 million to nearly 6 million in about six months. That gives you the trajectory of awareness which is happening around the world.

Lord McColl of Dulwich: Thank you very much.

Q724 Baroness Hanham: We are talking about slavery in terms of business. Can I ask you to look a bit at governmental responsibility? Do you think that your Government and our Government have within their systems sufficient intentions to ensure they are dealing with these supply chains in the sort of way that we are all talking about?

Andrew Forrest: Let us just say the British Government is leading the way here. Outside this legislation—which we are hoping very much you will extend across into business, because business to business will be one of the most powerful eliminators of slavery and right now is the most powerful encourager of slavery—I think that there is probably no Government in the world right now that has effective anti-slavery measures combined with effective anti-slavery enforcement. It is awareness, which links to the previous question; many countries have anti-slavery measures that are not effective, but they are largely ineffective because of lack of enforcement. If you can bring in legislation, and business practice and expectation which are effective, you will also have the resources to enforce, and you will lead the world as you did under William Wilberforce.

Baroness Hanham: Thank you.

Q725 Mrs Spelman: Andrew, you floated an idea in January, building on the global risk index of slavery, which is a country-by-country analysis, the idea of the possibility of a corporate risk index where we actually look at or rank corporates according to how great the risk was in their own companies. Have you had any more thoughts about that or any feedback since then?

Andrew Forrest: Yes. We have been studying it furiously. That was a step change taken just before Davos where, up to that point, all the studies we had done were to determine slavery within companies. Of course, what you do not want to do with businesses is just take them on head-on; you need to work with business. When we were negotiating this with businesses around the world, they seemed to be happiest to be assessed for their risk, as opposed to blunt accusations that they could well be involved in industries which have slavery in them. That is quite easy to do. In the construction industry across the world, but particularly in the middle east, or in fisheries around the

world, you could easily line up big and respectable companies and associate them with industries that are well known for slavery. We took a view that that would be quite discouraging of business and we would be much better encouraging business, just pointing out that they may well not have any slavery within their supply chains—let’s pray—however, they could well be at risk of having slavery in their supply chains. That tended to switch on the minds of the chief executives and chairmen of the major corporations we spoke to, because risk is something in their regular vocabulary, in their board papers, in their chief executive assessments, and is something they could easily manage and be happy to be assessed on.

Q726 Mrs Spelman: I have a small supplementary. We are thinking about the possibility of requiring companies of a certain size to have a nominated non-executive director on the board to take responsibility for eradication of slavery in supply chains in the company. Do you think that would work? Would it help the driving of those key performance indicators through the procurement team? What do you think about that?

Andrew Forrest: I am wondering about the impact it would have. We have an 11-person board ourselves, of which the majority are non-executive. If one of those non-executives had a particular responsibility to ensure that there was no slavery in the supply chains of my business, how would that impact me? I actually think that would be a very good thing. If you have had a KPI on a director that is slavery, it is going to act as a focal point of responsibility and that is always a good management measure. So, yes, I would support that, but I would not excuse the chairman; I would say it is the chairman and a nominated non-executive director who carry specific responsibility.

Q727 Michael Connarty: I am very much in favour of the idea of encouragement, of giving companies a kitemark to say, “We are proudly ethical and slavery free.” One of the problems I have is that I have met with people from Mumsnet for a big retail company in the UK again and again, and they have said to me—I am sure this is the same for middle income and lower income families in Australia—that when you are buying the kit for the kids in the summer you know it is going to get wrecked anyway after the summer and you do not want to spend a lot of money, so you just get the cheapest; you do not ask where it is coming from. Quite frankly, I was told to my face, “Look, we are looking at our budget. The last thing on our mind is whether it was done in a factory in Bangladesh or in some place in Birmingham.” How do you get the public

on board? You are talking about doing it through the businesses, but the consumer businesses, like retail businesses, are driven by what their customers want, and that is usually cheap goods and no questions asked. How do you change that?

Andrew Forrest: Here is the issue. We are looking at systematic and sustainable change. We should not be judging whether or not people are being paid enough in one country or another, or being paid more in one company in an industry in a poor country, so long as the labour force are free to move. These are the only two points I want to make but I think they will answer your question comprehensively. Provided workers are free—mums or dads, sons or daughters—to leave their place of employment to move to another place of employment for less pay but a better boss, or even more pay but a worse boss, then that economy will generally begin to attract capital, which will build up that economy until eventually you have the China syndrome, where it is in fact not that cheap to get things made in China any more. It was fantastic, but now it is all catching up; there are much cheaper areas. I would not start looking for a legislative response to say, “Let’s just up the salary in certain areas,” because that will get in the road of the market and it will eventually be bad for the country. However, I do make this point—

Q728 Michael Connarty: But the point about Bangladesh is that people were locked in the factories; they were chained in, so they burned to death when the factories went on fire. Rana Plaza collapsed and people got buried in it while they were being forced to go to work in those conditions. It is not about money; it is about the conditions of the people. Quite honestly, when those things were happening, I was told by ordinary shoppers, “We don’t really think about that when we go shopping for cheap goods.”

Andrew Forrest: Okay. This leads me to the second point. I just wanted to alert your inquiry to the fact that if we try to intervene in the cost of labour we will stub our toe badly; we will cause more harm than good. However, that Bangladesh example you used is an excellent one. Those people were not free. If they could not leave their place of work, they were enslaved. If they were free to leave, they clearly would have left; they could not. However, the point I wish to make is that goods made by cheap labour and goods made by slave labour cost almost the same. The difference in profit is made by the enslavers, which the consumer does not see. If you stamp out slavery, say in Bangladesh, you will not see the cost of goods rise by any measurable amount, because they will still have very cheap labour. It is just that the honest businesses will be surviving and you will do the dishonest businesses out of a job, and that is a very good thing. The cost of goods will still

remain competitive even if you eliminate slavery completely from, say, Bangladesh or India and so on. Cheap labour makes up the difference, but the huge margin goes to the criminals, and that the consumer does not see.

Q729 Fiona Mactaggart: One of the things we have seen is that in business sectors where there is slavery—I am thinking, for example, of chocolate where there has been a long awareness of child labour in the supply chain and so on—it has taken years and years before the big companies have changed their practices. My worry about the offer that you are making is that we might see in other sectors the same long, slow laborious process. How can we avoid that?

Andrew Forrest: If the British Parliament brings in laws that totally attract the attention of every British chairman and a nominated non-executive director, that in itself will show fantastic leadership to all other countries. Why corporations and businesses take a very long time to do anything that is really good that they might not get paid for is that they are not going to get paid for it. There are two ways for businesses to be paid. One is through recognition, particularly consumer product recognition, and the other is money. We are moving into a world—and you are leading the world—of recognition, that, if an industry like the chocolate industry, or players inside the chocolate industry, stamp down on slavery, they are going to get consumer recognition. Those who do not will begin to attract the attention of organisations like the Walk Free movement as to why they have not taken the necessary steps, and that will be very poor recognition. You will see an accelerating effectiveness of anti-slavery movements within corporations just through the highlighting of the issue you would make by legislation in Britain.

Chairman: Andrew, may I thank you, please, for your evidence? Could I thank Fiona as well? You would not have been able to see, but you probably know that Joanna was present for the whole of the hearing and signalled she would get us the disc that Caroline was asking for. Thank you for your time. I am sure we will be talking to you again soon.

Andrew Forrest: Thank you, Chairman and thank you, Members. I am delighted by your attention.

Examination of Witness

Witness: **Mark Sedwill**, Permanent Secretary, Home Office, examined.

Q730 Chairman: Mark, might you begin by identifying yourself for the record? Then we will begin the questions.

Mark Sedwill: Thank you, Mr Chairman. I am Mark Sedwill, Permanent Secretary at the Home Office.

Q731 Lord Warner: We realise, Mr Sedwill, that you have been over a lot of this ground with the PAC, and we have actually seen the less than glowing report by the NAO on the recovery of assets, so we start from a position where at least the question is in our mind: why would one want just to replicate the POCA system in the Modern Slavery Bill? It would be very helpful to hear from you what you have taken away from the PAC and the NAO experience, and what you think is going to change as a result of that experience.

Mark Sedwill: Thank you. The first thing to say is that, although it was a somewhat adversarial rather than an inquisitorial session, fundamentally the critique in the NAO report is one the Government accept, and we set that out in the serious and organised crime strategy. In this whole area of asset seizure and asset recovery from criminals we are not as effective as we need to be. We have now a piece of work under the new Minister, Karen Bradley, to improve that—the criminal finances improvement plan. We would not seek simply to duplicate the existing capabilities in the system under POCA for modern slavery, because they are not effective enough under POCA. They need to be more effective.

I can boil it down to two big issues, if I may, which again slightly got lost in that other session. The first is that there is only an effort to impose a confiscation order in about 1% of criminal convictions, if you look at the NAO report, and even that is a very small percentage, 3% or 4%, of those which relate directly to acquisitive crime; it is 1% of criminal convictions.

Secondly, if you look at the chart at the back of that NAO report, our success in recovering assets is essentially inversely proportional to the scale of the crime. Small fry have very high rates of recovery; the big fish—the serious and organised criminals we are interested in particularly in the context of this Bill—essentially have a much poorer rate of recovery. Those go to an underlying issue, which is about capability in the law enforcement and criminal justice system. We are working on that. It is something the National Crime Agency is working on, but I am the first to acknowledge that we have a very long way to go until this is a truly effective deterrent, and a mechanism against criminal activity.

Q732 Lord Warner: Could you take us a bit further forward on two particular issues? One of the arguments raised in the evidence sessions with the PAC was that actually collecting the money was not the only factor; with the whole area of confiscation there was disruption of criminal activity. That I found personally a little bit unconvincing, in the sense that you are more likely to be disrupting criminal activity if you have a jolly good system for collecting the assets, but I would like to hear what your views are on that balance.

Secondly, the NAO was pretty critical of how late in the process the move was made to constrain assets so that there was something to collect at the end of the process. The proverbial horse had bolted by the time you came to try to take some action. Can you give us a bit of a flavour of what the Home Office and Government position is on those two issues now?

Mark Sedwill: On the first, it is not entirely either/or, but the primary purpose is to disrupt criminal activity. But of course you are right, and the Public Accounts Committee were right, in saying that seizing the assets is the means by which, through at least this mechanism, one does that. The point I was trying to make there—I do not want to delay this Committee too long on this, I realise—was that if we simply set an objective, which is essentially a numeric objective, partly because we are much better at getting large numbers of small amounts of money off small fry, you could skew the system towards going after the small fry rather than the major criminal networks, because a financial target would skew one that way. We have found that kind of perverse incentive in the past. It is not that seizing the asset is not the means of disruption—it is—it is focusing that on the strategic impact one wants to have on the big criminals, rather than just going after large amounts of small money, if you like. That goes to the earlier point I was making about capability. It is a lot harder, because the big players, of course, have capabilities to launder money, switch it overseas and so on, that are not available to the small-time criminal. That goes to your second point about the point at which in an investigation this is brought to bear.

There is something here, I think, about, essentially, the system of investigation; traditionally in law enforcement, you have investigation, arrest, charge, prosecution and conviction, and that is what a police officer, or whoever, would regard as the result. The investigation and the evidence that is collected and recorded is designed to achieve that result—a conviction. We need to move to that same system—arrest, charge, prosecution, conviction, confiscation—so that the whole investigation is configured from the start to see confiscation as a component alongside conviction, for which evidence needs to be collected right the way through the investigation. It is complicated in

terms of “At what point might assets be frozen in order to stop them being moved overseas?” because that could disrupt other components of the investigation. This is something in which, particularly in the more complex cases, there would have to be a determination as to whether conviction and confiscation, or disruption in some other way, was likely to be the more effective sanction. That would determine at what point the intervention to freeze assets, and thus essentially tip off the criminal that they were under investigation, might be made. It is quite complicated, but there is a fundamental point, which goes back to the capability issue, which is the degree to which confiscation is built into investigations from the start in the way that evidence is collected. That is a point about, essentially, the capability of investigating teams and law enforcement, which the National Crime Agency is seeking to improve.

Q733 Lord Warner: Is the Government open, though, to going further back in the earlier processes to restrain the assets?

Mark Sedwill: Yes.

Q734 Lord Warner: The Italians have actually gone down that path. In the review you are doing, can we be reassured that a serious look will be taken at moving at the point of charge, or even before, to restrain the assets, so that there is something to collect at the end of the day?

Mark Sedwill: Yes. In legislative terms we are looking at shifting the threshold from reasonable belief to suspicion, so that would inevitably have a time factor in the investigation. It is also the case that, at arrest, the police can seize cash assets immediately. Whether those are then returned depends on whether there is a conviction or not, but they can be seized at that point. There are provisions in the Proceeds of Crime Act to extend that capability to fixed assets, or a car or something of that kind, and we are planning to bring forward the secondary legislation to enable the police to do that—obviously procedures need to be put in place around it—this year.

Q735 The Lord Bishop of Derby: Mark, you talked in terms of asset recovery about capability and performance levels, and you have just alluded to the fact that there can be a raid and—we heard last night—people find £150,000 and take it. This is a mechanism being used for a number of crimes.

Mark Sedwill: Yes.

Q736 The Lord Bishop of Derby: What kind of priority do you think could be given to this very serious crime alongside other attempts at asset recovery?

Mark Sedwill: We need to raise our game in all areas on asset recovery would be my first point. Secondly, human trafficking in particular, but modern slavery more generally, needs to be seen alongside other kinds of serious organised crime, and that is why the National Crime Agency and the serious and organised crime strategy have human trafficking at their heart. It is also worth noting that although intelligence in this area is not as good as it is in drug trafficking—it is a much less mature area of work and again that needs to improve—groups do not entirely specialise. Some of the same criminal networks who are involved in drugs trafficking will be involved in human trafficking, and some of the facilitators who help launder money and so on will launder money for whoever. It is not entirely an either/or in any case, but clearly the Home Secretary, the Home Office and the Government's intention with this Bill is not only to improve the capabilities and the powers that are available, but to signal that this is to be seen as a priority at the very top of the list, alongside narcotics trafficking and the other most serious organised criminal activity.

Q737 The Lord Bishop of Derby: That is great. If it is behind the curtain—say, in relation to drug trafficking and things—do you have any comments about the resource the Government might try to invest to push it up the table a bit?

Mark Sedwill: It is largely about resourcing. Within law enforcement, resources are obviously constrained at a time of austerity, so part of this is improving the capability of the resources that we already have. But one of the reasons for designing the National Crime Agency in the way it was designed was to bring that broader range of requirements within the same organisation, and thus enable Keith Bristow, the director general of the National Crime Agency, to make more intelligent judgments about how to resource investigative activity and disruptive activity against the most serious human trafficking groups as well as drug trafficking groups. But, as I said, in some cases they are the same networks.

Q738 Baroness Hanham: Picking up the flotsam, if I may, to give you the information, a witness we have had before us told us that one big flaw in this is the ability to enforce, because there are not enough resources and not enough people. The whole question of enforcement is

going to be absolutely vital to whatever you are doing. My question would probably be to ask you to amplify a bit more about what the Government are intending to do to see that there is good co-ordination between confiscation and restraint action, particularly in light of this Bill. That is where our concentration is, and the question is whether you can have within the Bill enough criteria, against having to deal with the whole POCA resource.

Mark Sedwill: I hope this answers the question. One of the issues, I know, in some of the questions you identified you might want to touch on was whether the provisions in the Bill about seizing the means of trafficking—aircraft, cars and so on—should be extended to fixed property. There is clearly a strong case for that and we would very much welcome the Committee's views on it before the Bill goes into its final draft.

If you look at the provisions in the Bill just on that area, because they are distinct from those in the Proceeds of Crime Act, and if I can use a concrete example perhaps to bring it alive, the Proceeds of Crime Act would enable us to seize, for example, a criminal's house, BMW or whatever it might be, after conviction—and those may never have been anywhere near the criminal activity itself, but are the proceeds of it that they have sought—whereas in this Bill we are seeking actually to seize the means themselves. There is an important series of provisions, and "including" means those which the criminal does not himself own, or has had a formal hire purchase or other kind of agreement for, and is simply making use of. That is quite an important provision, because they would not be subject to the Proceeds of Crime Act if they were not assets owned by the criminal, and they might not be that valuable; the vehicles used might not in themselves have high value. That is an important additional provision.

The other area the Committee might want to explore in looking at the link between this Bill and the Proceeds of Crime Act is whether there should be additional offences included on the list of "lifestyle offences" that are covered by the Proceeds of Crime Act. As you know, it is possible under the Proceeds of Crime Act not only to seize assets that are related to criminal activity but to make a judgment that somebody is enjoying a criminal lifestyle, and then essentially all of their assets, fixed or otherwise, are subject to seizure. But there is a list of specific crimes for which that provision applies. Human trafficking is included within that, but the first category of crimes within this Bill says that slavery, forced labour and servitude are not. Again, the Government would welcome the Committee's view on whether those crimes should be added to that criminal lifestyle list.

Q739 Baroness Hanham: I think that would take us right back to the beginning of our thoughts on that.

Mark Sedwill: To go to your first point, as I said to the Public Accounts Committee, as Ms Mactaggart will recall, we know that in general terms—it is not only in this area—we have to improve our capability, particularly as more crime moves offshore; there is a more international dimension to crime, the online component of crime becomes more important and disruption will become an increasingly important component of our activity to cut crime when people are essentially beyond our reach for the traditional prosecution and conviction.

Baroness Hanham: Thank you.

Q740 Mrs Spelman: Mr Sedwill, this question really focuses on effective co-ordination across many agencies in terms of confiscation and restraint action. You will know that the Bill is looking at the role of the GLA, and that the GLA is under DEFRA, but where it should be is being discussed. In evidence we received from the GLA, it is clear that they are stretched resource-wise, they are effective in the narrow focus they have but could do more, and there are discussions around moving them into other sectors, like construction or catering, which are huge, where slavery is prevalent. How would you see this co-ordination working effectively with an agency like that?

Mark Sedwill: As you say, Mrs Spelman, there are discussions going on within Government about a potential machinery of Government change in order to align the GLA's work more effectively, for example, with the Security Industry Authority, which has similar characteristics and, potentially, to look at its remit. You are also right that they are stretched, and they are stretched in the area for which they are responsible now. I was in Wisbech quite recently looking at a project which Ms Mactaggart's colleague Steve Barclay from the PAC has been involved in about exploitation of, mostly Lithuanian, workers in the agricultural industry there by gangmasters, some of whom are operating certainly in the indentured labour territory of modern slavery. What I saw there—the reason I am giving you a specific example is that I think it goes to the point you are making—was very good co-ordination between a range of agencies, the local authority, immigration enforcement, customs and revenue, the National Crime Agency, the gangmasters authority and even fire officers and so on, who may also have a means of entry. It is effective because it means that the agency that has, essentially, the most traction on a particular issue can pursue a business, a landlord or whatever on behalf of the others as a whole. If the easiest way in is, say, through the fire officer

because there is a breach of fire regulations, others can stand back and allow that process to proceed.

This is essentially the sort of Al Capone tax evasion type of concept, if you like. But, and this is where I think you touch on a really important point, it is still the case that that co-ordination is labour intensive; it requires a group of agencies to turn up together and then work out among themselves who is best placed to proceed. At a time when resources are constrained, yet everyone needs more resources but of course those are not available, an area we are looking at is the extent to which, through better intelligence-sharing to start with, we can identify which agency has the most traction before everyone has to go and look at a particular case, but also whether it is possible for triaging, for agencies to share powers or to cross-designate powers, at least to each other at some levels. That is legally complicated. There are liberties issues, of course, within that, and there are serious issues about the protections one needs to put around data sharing and ensuring that not every Government official has access to every piece of data on every member of the population, but it is an area of work that we are pursuing, and certainly Ministers are keen that we make significant progress in that area.

Q741 Lord McColl of Dulwich: What are the Government doing to assist the authorities in pursuing criminal networks involved in modern slavery when investigations and assets are located abroad?

Mark Sedwill: This is one of the most complex areas, and has proved to be the case, of course, with other forms of international organised crime, drug trafficking being the obvious example. In many cases, the big profits are made in the middle of the process. The person at the start of the process, whether it is a poppy farmer or an individual—somebody who is involved in identifying vulnerable people who might be trafficked—may not make a huge amount of money, and the people at the delivery end may not make a huge amount of money, but the people in the middle do, those organising the trafficking networks, and they are often in jurisdictions that are difficult to reach. This is a very challenging issue.

There are conventions. It is one of the areas, in terms of the EU 2014 provisions, that we seek to opt back into this year in the Justice and Home affairs area, the EU arrangements for essentially being able to recover assets from each other. Karen Bradley, our new Minister, was in Madrid earlier this week to look at a bilateral arrangement with Spain, where we have a particular issue, of course, about criminals going and enjoying the proceeds of their crime. We have similar work going on with China and the United Arab Emirates, and we are looking

at several other countries as well. The commitment is there and, as with much of the Home Office's work, we need to become much more internationally focused than has traditionally been the case. I do not want to underestimate the challenges of that, but it is an area of work that we are pursuing, and in particular the National Crime Agency, again, was designed to be able to operate more effectively in a more coherent way than the precursor bodies.

Q742 Lord McColl of Dulwich: What about India?

Mark Sedwill: I would have to come back to you on whether we have a specific piece of work going on with India. I know we have a significant law enforcement presence in India. I would have to come back to you on whether there is a specific piece of work yet in this area in asset seizure in India. I am not aware of it.

Q743 Sir John Randall: If we take a positive view that things are going to improve and we are going to have more assets recovered, do the Government have a view on whether a proportion of those assets should be given to the victims of slavery? One view, of course, is that in order to get convictions we need the victims to come forward. They are going to be the prime source of evidence and intelligence for this, so they have to feel secure and feel that it is something worth doing. What is your view on that?

Mark Sedwill: Perhaps I might make two points, Sir John, in response. The first is that, where there has been a successful confiscation order, if the court has also employed a compensation order, that has first call against the money retrieved through confiscation. That would come ahead of any money that came back to the state through confiscation of the criminal asset. There is already that provision in specific cases—the intrusiveness of the law enforcement capabilities, or rather the power to enforce a confiscation order. We are permitted more intrusive powers than would be the case under just a compensation order made in isolation. More effective action on confiscation should also enable the courts to not only apply but actually provide more effective compensation for the victim as well. But I guess the second angle to this, which you may be driving at, is where we have not gone all the way through to conviction—victims are often traumatised or reluctant witnesses, for obvious reasons—and whether any of the funds that we might retrieve through criminal finances action, asset seizures and so on, might be remitted to those victims.

I do not want to sound like a Sir Humphrey-ish accounting officer here, but I am about to. Instinctively, I am always a little bit wary of

ring-fencing in areas, for two reasons. First, it tends to displace other funding, so you might have ring-fencing which is designed to supplement other funding, but what tends to happen is that because money is money, when you are looking at it, particularly in a constrained resource environment, a certain amount of money is allocated—for provision of compensation in this case—and, if there is a funding stream for that, less money off the general budget tends to get allocated to it and is allocated to other and competing priorities. That is just the nature of Government funding, so I am not sure it would necessarily have the effect of increasing the funding available to compensate victims that one might want. Given the way Government funding works, probably the key thing is to identify the amount of funding that is required for victims and then work on whatever funding sources might be necessary for that.

Chairman: Can we continue this with Fiona and then Andrew?

Q744 Fiona Mactaggart: I want to follow up two points you made. Earlier you mentioned the provision in the Bill for vehicles which have been used as part of trafficking. If we were to suggest that the definitions in the Bill could include things like harbouring, do you think that would affect the powers to seize assets used to enslave people, such as if they were being harboured within a building and so on?

Mark Sedwill: Yes. Perhaps I was not clear; it was exactly that kind of example I was referring to. There is clearly a strong case for that and we would very much welcome the Committee's views on how one might configure a provision of that kind. It is a little more complex in the case of fixed assets, for the reason you set out, but that is where we really would welcome the Committee's views. Ministers are very much open to that kind of advice.

Q745 Fiona Mactaggart: Thank you. The other question follows up on your earlier point about, as you said, being Sir Humphrey-ish, and I am sure you won't like this. The MP for Bedfordshire, having talked with his local police force about the real costs of the investigation that they did for extensive slavery, has suggested that there should be a possibility that some of the proceeds of confiscation orders should be ring-fenced for supporting policing efforts, so that police forces which invest extensive resources into these criminal networks can, in some way, get back some of their costs through these efforts. Would you be prepared to consider that?

Mark Sedwill: Of course. As you know, we are looking at the general funding mechanism for policing, which is at the moment very much demand-led. It is complex, but it is broadly based on population density and levels of crime. There are within that, arguably, strong enough

incentives to drive efficiency, innovation in tackling criminal types and the rest of it. Ministers have agreed to—in fact commissioned—a review of that funding mechanism. This is the kind of component that we would want to look at in that context. It is worth making the point that the capabilities we need to build in this area are not specific to particularly human trafficking networks. Those same capabilities, particularly in terms of asset seizure and confiscation orders—but one might think of the online component of this—would apply to other kinds of crime as well. We should not try to dice and slice too much the capabilities that police forces need to bring to bear, including, for example, the capabilities of the improved training that every police officer should be getting in terms of how they deal with victims, how they identify some of the signals that might indicate that a young person who is perhaps presenting as delinquent, anti-social or involved in low levels of crime actually might be the subject of sexual abuse, modern slavery or other factors that make them more a victim under duress than a problem. I think there is a range of training and capabilities, both on the victim side and the crime side, including asset confiscation, which police forces need, and which would stretch beyond this particular area of criminal activity.

Q746 Fiona Mactaggart: Do you think that you would be willing to consider ring-fencing a significant proportion of any assets they recovered to go to that specific police service?

Mark Sedwill: Police services already get a proportion, as you know, through the asset recovery incentive scheme. We are looking at that scheme as well, to see whether those balances are right. As I say, I am always a little wary of being over-elaborate in terms of funding mechanisms—ring-fencing an income source and ring-fencing an impact we are seeking to have—because, in the end, money is money. What we really want to do is identify the requirement and make sure we are funding that, and then generate as much income as we can, either directly from the Treasury or from other sources. I would not necessarily want to impose an artificial constraint on that, but it is obviously something we should consider.

Q747 Sir Andrew Stunell: I want to come to the same point really—your Sir Humphrey point. The proceeds of crime is a pot of money.

Mark Sedwill: Yes.

Sir Andrew Stunell: And the discussion really for us is do we have any subdivisions of it? The United States has what they call a mandatory compensation scheme. In other words, when a sentence is passed the

judge is bound to make a compensation order or restitution order, which you say pre-empts that money. The discussion for us is whether we do something that is pre-emptive on that pot of money; it is not about whether we are substituting somebody else's money for it. The nature of the compensation scheme is going to be very difficult to manage or predict. It is going to be done at the time of sentencing. I am really asking you whether, from the Home Office perspective, from your perspective, you think my analysis there is right and that the Sir Humphrey point is perhaps slightly misleading.

Mark Sedwill: I think yes and no, if I may go even further into that territory. The points are distinct. The point I was just making, and Ms Mactaggart was pursuing, was really about the system as a whole, funding for police forces and so on at the institutional level, whereas I think you are focusing on the individual cases and compensation for individual victims. As I said, if there is a confiscation order and a compensation order, the compensation order has first call on the money anyway, so it is not, essentially, then a question of artificially beforehand determining a proportion. It is that any compensation order the court makes has first call against that money.

There is an interesting question, I think, which goes to your point about the United States, as to whether the courts in this range of offences should not only have the option to consider compensation, but that it should be strengthened to some kind of at least obligation to consider. Again, that may be something the Committee wants to reflect upon, and the Government will obviously take very carefully your views on that kind of boundary.

Q748 Baroness Butler-Sloss: I wonder, Permanent Secretary, if I could take you to a much more general point, quite outside what you have been asked about so far. We had the American Ambassador-at-Large on modern slavery to give evidence yesterday, and he told us that when this Bill was passed it would be of interest not just within Europe but right across the world.

Mark Sedwill: Yes.

Q749 Baroness Butler-Sloss: It is going to be very important that this Bill is well received. I do not know how far the Home Office appreciates the extent to which the Bill, as present drafted, will get a great deal of negative press and negative attention, particularly from NGOs. That will be reflected, I think, across the world, so that what one would hope would be a flagship Act of Parliament, which would redound to

the credit of this Government and to the credit of the UK, is in real danger of being knocked and not well regarded, because there is nothing in it about victim care and services. Again, the American Ambassador-at-Large was very interesting; they have—it is fair to say, after certification—a specific in their legislation on victim services. If you do not put anything in, Home Secretary—Permanent Secretary, I am so sorry.

Mark Sedwill: You will have us both in trouble.

Baroness Butler-Sloss: Yes, I know. If you do not put anything into this Bill that reflects victim services at least, the Bill will fail in the PR element and fail across the world. How far is the Home Office aware of this?

Mark Sedwill: I have not heard it put quite that starkly, but we are aware of the issue. It is important that we keep in mind that the Bill is one component of the overall strategy the Home Secretary has set out in her campaign, which she has worked on—in particular with the Chairman—for some time. The action plan that is going to be published alongside the Bill later in the spring does have a great deal of material in it about victim support. The Bill of course is about legislative change, and the action plan would include the wider area of work about systems improvement and so on, including victim support. Clearly, if the Bill is going to have the kind of reception you suggest, that would be a major setback for us, because this is an innovative piece of legislation. As you said, it is the first in Europe, and one of the first in the world. As we said in the preamble to the Bill, this is the first and it is unlikely to be the last.

The reason we have tried to keep the Bill itself quite focused is in order, frankly, in a short fourth session, to make sure we get it on to the statute book and get some concrete progress going, knowing that there will need to be further work alongside it, including and especially in victim support, in order to achieve the objectives that we have set out. There is a PR angle to it, I absolutely accept; Ministers are conscious of that. As I say, I do not think I have heard it put quite that starkly, but they are aware of the NGO angle on this. I hope we can satisfy that by looking at the Bill as part of the overall campaign that the Government has launched, but I entirely accept the points.

Q750 Baroness Butler-Sloss: Could I just make this point to you? From the evidence that has been given to us, if there is nothing in primary legislation even giving the Home Secretary the power to do something, you will in fact get a very bad press. You do need to take that back, because to have a good action plan side by side will not meet what is being told to us. I just thought I ought to raise that with you.

Mark Sedwill: Thank you. I recognise the point. Not only have you made it today, but I presume that it will be part of the Committee's overall recommendations to the Government on the Bill, and I know that Ministers will take not only that point but the rest very seriously and consider it carefully.

Chairman: Thank you for the information you have given us. That is a piece of information for you to take back. Thank you very much.

Mark Sedwill: Thank you, Mr Chairman.

Examination of Witness

Witness: **Steve Barclay MP**, Member of the Public Accounts Committee, examined.

Q751 Chairman: Steve, might you identify yourself for the sake of the record?

Steve Barclay: I am Steve Barclay, Member of Parliament for North East Cambridgeshire and a member of the PAC.

Q752 Chairman: Thank you. You have heard the importance we are attaching to effective recovery of assets. What concerns me is whether the Bill is going to be so shaped in this area in this way that we allow assets to be dissipated abroad or somewhere else, rather than acting as quickly as we might. Might you just go over the comments you made to the PAC on how early you think we could start to freeze and then take assets, please?

Steve Barclay: In short, we should freeze at the earliest opportunity.

Q753 Chairman: Which is when?

Steve Barclay: Within the first 24 hours of the time of arrest. The reasons why that is not happening are fivefold. First, the legal test is very high in the UK; it is much higher, for example, than in Italy. One of the key distinctions is that in the UK one has to prove the likelihood of dissipation. That does not apply in a jurisdiction such as Italy, so it is quite hard to prove—particularly if you are talking about spouses, third parties and financial advisers—that it is likely that they will dissipate. It requires significantly more investigation in order to meet the test. There is also the judgment in *Windsor v. CPS*, which set quite a high bar in the UK courts. That also has a cost impact, because if you think you are not going to meet that test, you are going to be liable for costs.

At a time of resource constraint for the CPS, there is reluctance to take the risk of losing and therefore actually pursue that. The Government has said it is looking in its serious and organised crime strategy at amending POCA, but the Committee might want to look at whether that amendment is sufficient to facilitate action.

The second issue that came out of the PAC was professional firms. Obviously, at the top end, financial advisers are using complex instruments to disguise assets. To put it in context, the National Crime Agency was set up on 7 October; since then, it has never once frozen within the first 24 hours, and in the evidence Alison Saunders gave the Committee, she took comfort from the suspicious activity report regime, as if that would be an impediment to professional firms moving the assets. In my role before coming to Parliament, I was head of anti-money laundering and sanctions at Barclays retail bank. We used to file a lot of SARs and, truth be told, they were often used more to protect the firm from reputational damage than to actually alert SOCA. To put it in context, last year there were around, I think, 350,000—it will be in the PAC report—suspicious activity reports filed to SOCA in a year when the National Crime Agency was looking at 30 to 50 organised criminal gangs, probably around 250 to 300 people. So you can see that the SAR regime is not an effective control on professional firms. The Committee might want to look at how and at what stage professional firms are being alerted, and to what extent there is an impediment on them moving assets, bearing in mind that they are getting very high fees from doing what their clients would like them to do.

The third issue, which is a common one in Parliament, is that we focus on what the policy and legislation says, and less on resource. There is massive variance in police resource around economic financial investigators. There are also constraints on CPS resource, so one can look at the policy and the strategy. I am not convinced that the resource is often there to deliver.

Particularly linking to Ms Mactaggart's point around incentives, which is the fourth point, I am mindful of what Mark Sedwill said about "money is money," but the reality at the moment is that the Home Office gets 50% of what is seized, yet it has no operational role in recovering that money. If I am a chief constable in Cambridgeshire looking at this issue in the Fens, to what extent am I going to pay for financial investigators now who may or may not recover money, which will not be recovered for three to four years, and then 50% of that is going to go to the Home Office? Am I suitably incentivised through that scheme to be putting in the up-front money now, when I probably will no longer be the chief constable when it comes in?

The final point is around IT and prioritisation. It is woeful at the moment; they simply do not have IT that is compatible and allows them to prioritise. Therefore, in terms of picking what are the high-profile cases and going after those aggressively—particularly around third party spouses—the IT is not there. Again, it is unclear what the interim milestones are around the delivery of that. That was an issue that the PAC also explored.

One thing, finally, Chair, which is not about the first 24 hours: the Committee, I am sure, will want to look at the sanctions for those who do not actually pay up. If the default sentence for not paying a £20 million fine is eight years in jail, and you then get released after four years, actually it is very difficult to think of a job that would pay you that well for four years in jail—to come out and have access to your funds. We need to look at the default sanctions. That is something that the PAC were particularly mindful, Chair, that your Committee should take under consideration.

Q754 Chairman: Brilliant. Can I just ask one question? How low is the threshold in Italy, and does that account for why they are so successful in their recovery of assets?

Steve Barclay: In the note to the PAC report, which is still in draft—but I am sure Ms Mactaggart will be able to liaise—we set out both what the legal test is in Italy and also certain jurisdictional differences around the fact that, for example, seizure is automatic in certain instances in Italy. It is not a pure like-with-like comparison. Obviously the legal systems are different, but that is addressed in the notes from the CPS to the Committee, and it is something that I think prosecutors are better placed than me to look at, in terms of what we should do.

Q755 Baroness Butler-Sloss: Could you venture a suggestion as to what sort of threshold there should be? Should it be suspicion, for instance? How would you put it?

Steve Barclay: I would put it on suspicion, and a very low test for anything over and above what you would need to live on—because we are not talking about confiscation at this point; we are purely talking about stopping people moving them—and also changing the dynamic for the professional firms, because as someone who would be doing this within a firm, you are under pressure internally from very profitable clients to do what those clients want. You need to shift the bar for the professional firms as well. If there is sufficient evidence to warrant the National Crime Agency picking it as one of the 30 to 50 groups they are looking at out of 5,500, and there is sufficient evidence for an arrest, it

strikes me that there is quite a bit of evidence there on which to put notices out to professional firms putting some controls on their accounts.

Q756 Lord Warner: I think you have answered my point, but, just to be clear, why isn't the decision to make an arrest sufficient evidence in itself to restrain the assets?

Steve Barclay: This is not the fault of either the police or the CPS, but the courts have set a test which says suspicion is not sufficient to restrain funds. That is the current legal position.

Q757 Lord Warner: We would need to change that in legislation.

Steve Barclay: Yes.

Q758 Michael Connarty: I have been reading a lot about the anti-Mafia campaigns. I understand that in Italy the anti-Mafia law is so tough that anyone associated, like lawyers or legal firms, with anything to do with Mafia activity can be treated as potentially criminal, and therefore you can seize and freeze the assets. That is overarching, that anyone dealing with Mafia-related business is immediately constrained. We do not seem to have anything in our law that constrains lawyers or accountants from doing things that are suspicious. How do we get that kind of overarching tough law that says to anyone, "If you are involved in a practice that may help criminals, you are in fact going to find yourself criminalised by that activity, and therefore you have to be self-disciplined in what you do?" It seems that legal firms and accountants think they can assist illegal acts, but somehow not be liable for any criminal activity.

Steve Barclay: There are a number of points to unpick from that. First, Italy have had more experience through the Mafia, and therefore have looked at some of these issues perhaps in more depth, but legal systems are different, so a cut and paste across has limitations.

Secondly, when you are looking at these accounts within firms, it is never black and white, so it is not that the professional advisers are saying, "We know it is criminal but we are going to turn a blind eye." It is shades of grey: what is the tipping point within the professional firm where you are concerned reputationally about doing something? What was striking about the PAC session was how unsighted, in my view, UK authorities were on what was being done in Italy; the evidence really only came in notes following the session. It is open to the Committee to be looking at what is the best in the world, and to what extent we can take lessons from that. The key difference, on my understanding, is

that the evidential requirement in Italy does not require them to prove that the funds will be dissipated. I think that is a distinction the Committee should focus on.

Chairman: Steve, that was brilliant, thank you very much.

Examination of Witnesses

Witnesses: **Greg McGill**, Head of Organised Crime, Crown Prosecution Service, **Liam Vernon**, Head of UK Human Trafficking Centre, National Crime Agency, **Steve Wilkinson**, Head of Proceeds of Crime, National Crime Agency, and **Ian Davidson**, Police Service, examined.

Q759 Chairman: Thank you very much. Might we start, Ian, with you? Could you just identify yourselves for the record and then we will begin?

Ian Davidson: I am a former police officer and am now the national co-ordinator for regional asset recovery teams. I work with the Chief Constable of Derbyshire, Mick Creedon, on the financial investigation portfolio as well.

Steve Wilkinson: I am Steve Wilkinson. I am from the National Crime Agency. I am Head of Proceeds of Crime, responsible for the accreditation of finance investigators across all our enforcement.

Liam Vernon: I am Liam Vernon, also from the National Crime Agency. I am the head of the UK Human Trafficking Centre.

Greg McGill: I am Greg McGill. I am a solicitor and head of the Organised Crime Division at the Crown Prosecution Service.

Q760 Lord Warner: Many of you will have heard the evidence in the previous sessions so I do not want to go over the same ground again. What I would like to hear really, and the Committee would like to hear, is the extent to which you may have any differences of view from the evidence given by the Permanent Secretary about the relationship between collection and disruption of criminal activity and, in particular, what initiatives you would like to be seeing in your agencies to improve the confiscation of assets? This is what we are very much in the market for—ideas for making this system more effective.

Greg McGill: I would like to support the view that was taken by the last witness about changing the test for restraint of assets. At the moment, it is a high legal threshold and does not match that for the

threshold for an arrest. To change it from “believe to have reasonable grounds” to “suspect” will make the seizure of assets earlier in the investigation much easier for investigators and prosecutors.

Chairman: Does anyone disagree with that? No? Very good.

Q761 Michael Connarty: Specifically, whatever the definitions are at the moment for forced labour and human trafficking in clause 1—we have had some evidence that it should be an overarching “exploitation” with all the sub-clauses; what is in clause 1 and clause 2 of the draft Bill—would it be better if they were designated “lifestyle offences” under schedule 2 of POCA for the purposes of compensation orders?

Steve Wilkinson: I think making them criminal lifestyle offences, if the Committee thought it was worth while, would, from an operational point of view, probably be looked on with approval. I am not sure that it would be our decision, though. It is more for the Home Office to make that decision, they own the policy.

Q762 Michael Connarty: Yes, but the idea is that you are giving us advice so we can give the Home Office advice on what they put in the Bill. Can you give us some examples of what would be the benefits if they did designate them as lifestyle offences?

Steve Wilkinson: The benefits would be that you would look back over all the criminality of those criminals, which would allow you to confiscate more assets. That may be problematical when you look at the types of offences that people eventually get charged with in this type of criminality, though. Perhaps it would be easier if I explained it a bit more.

Talking to the operational teams that work on these sorts of cases, the criminals tend to be involved in much wider criminality than just specifically human trafficking. Obviously, by the very nature of the people involved in it—the vulnerable victims that are involved in it—often it is very difficult to be able to allow operations to run as you would do in other types of investigations, because your focus is on that victim, which results in early arrests, which can lead to not being able to understand the greater extent of the criminality that would come towards supporting that criminal lifestyle tag, for want of a better expression, because obviously you have to focus on the victim first. Also, I think the criminality that tends to be charged by officers in these sorts of investigations tends to focus on those types of offences whereby you do not need to use the victims, because those people are obviously under duress in a lot of circumstances. Some of them are fearful of authority, because they are fearful of that authority in their

own country and they bring that culture into the UK, and obviously they are fearful of people back in their own country and others associated with them. Officers are mindful of that and tend to go with prosecutions for money laundering, and maybe other specific offences of fraud. You do not tend to end up getting into the territory of being able to understand the criminal lifestyle effect for human trafficking. I think it would be beneficial, but that is the reality that officers face on the ground around these investigations.

Q763 Michael Connarty: We have had evidence from very learned individuals that the definition should be much clearer. As was said by Lord Judge, trafficking is the movement of people or assets from place to place. It does not describe what it is all about. Exploitation describes what it is all about and all the subsets. If you had a clearer definition of the crimes, such as what is in the Palermo protocols, would that help in terms of broadening the charges you could bring, rather than having, as we know, to bring individual small charges of money laundering or some other criminality?

Greg McGill: Certainly in the context of deciding whether to prosecute for these types of offences, treating people either as victims or as perpetrators, it is exploitation that we would focus on in making that decision. So having that would be helpful. We would also support, in the CPS, making these lifestyle offences. It would help us make decisions along those lines, and anything that helps us seize those assets we would support, accepting that the ultimate decision on the policy is held by the Home Office.

Q764 Mrs Spelman: We have established in our mind that the powers of restraint under POCA are not sufficient to ensure that the dissipation of assets cannot occur. There are three questions that I will run together.

What are the challenges inherent in seeking a restraint order at an early stage in the investigation? Secondly, is there any other interim power that police and prosecutors currently do not have that you would like to have in dealing with these modern-day slavery cases? During covert operations, are there any other ways of preventing the dissipation of assets?

Greg McGill: Answering your first question, the main challenges are meeting the legal test, showing reasonable grounds to believe that the funds are going to be dissipated. That, in legal terms, is a pretty high threshold. You have three legal thresholds essentially in criminal law: knowledge, which is very high; belief, which is below it but not much

below it; and suspicion, which is quite a long way below it. Suspicion would help. Because in the proceeds of crime—it is known in law as a right in personam—you have to identify the name in which the assets are held, that can be quite difficult, particularly if you are dealing with assets abroad. The third point that you have to show is the risk of dissipation, which is very difficult.

Q765 Mrs Spelman: It is difficult to prove.

Greg McGill: It is something that the Italian jurisdiction does not have to show. It is that risk of dissipation that is difficult for prosecutors. It has also been touched upon as well that if we make an application for a restraint order, certainly against sophisticated defendants, and perhaps we get it wrong, we are liable in costs, and those costs in the criminal courts can be substantial because costs follow the event. For us that is difficult.

In dealing with a covert operation you sometimes have to be very careful, because the investigation could still be continuing, and if you suddenly start restraining assets that can tip off the criminals that you are looking at them. You have to sometimes have a real balance about how early you will intervene, because if you intervene too early it can be difficult. You have to consider whether you are going to restrain the assets or whether there are other factors in play that you are taking into consideration. It is quite a nuanced difficult decision sometimes when to intervene.

Mrs Spelman: Does anybody else want to come in on this?

Q766 Baroness Butler-Sloss: Yes, I do, because I wondered if they would all want to answer. I am interested to know, if we were to recommend taking out “risk of dissipation,” would that be something you would all approve of?

Greg McGill: It certainly would make the test much easier, yes.

Baroness Butler-Sloss: That is all I wanted to ask.

Steve Wilkinson: On the covert front, there are powers under the Proceeds of Crime Act to seize and detain cash, and part of the NCA is about continuous disruption of criminality. During the course of an investigation, we would often seize those opportunities as long as it did not frustrate the eventual case. There are opportunities, not just in this type of criminality but all criminality, to be able to seize cash under the Proceeds of Crime Act. That in fact does take place, and that money then, of course, gets paid into the Home Office with all the other funds.

Q767 Baroness Hanham: Can I ask you what your view is—any one of you can give the answer—of the civil forfeiture procedures under POCA? Are they sufficient for our needs in the UK? Are they sufficient for the Bill that we are looking at and the disposals from that? We have touched already on Italy. Is there anything more to be learned from Italy, or practices abroad in any other countries that do preventative confiscation?

Greg McGill: Civil recovery is a very strong part of POCA. Part 5 is something that we use, but the Attorney-General's guidelines make it very clear that the preferred option should be disruption by criminal proceedings. It is very much a second level, where we perhaps, for various reasons, cannot prove things to the criminal standard. The difficulty sometimes with proceeding by means of civil recovery is having those orders recognised in foreign jurisdictions; we have not ratified some of the European treaties that would make that a lot easier. We have suggested to the Home Office that we ratify things like the Warsaw convention and some of the European framework decisions that would make it much easier to recognise orders obtained here in foreign jurisdictions. I would say it is a robust piece of legislation, but it does not come without difficulties. Again, the point I made earlier is that for prosecutors it is quite a nuanced decision because, again, you are in the civil courts, with costs following the event and those costs can be quite considerable.

Q768 Baroness Hanham: But you are in a lower phase of culpability, are you not?

Greg McGill: You are.

Baroness Hanham: You do not have to reach the Crown court test, the criminal test.

Greg McGill: It is the civil standard rather than the criminal standard, which is a lower test. Absolutely.

Q769 Baroness Hanham: Does that make it easier for you potentially?

Greg McGill: It does.

Liam Vernon: Could I raise two points on your question, please? The first one is about civil recovery and the second one is about partners and practices overseas. It is a really interesting area to look at around civil recovery in human trafficking cases, because of the inherent

difficulties that victims face in giving their evidence or having the confidence to give their evidence, or, quite frankly, having the evidence that is required to get that case to court. They may just see one small part of the trafficking chain. If we want to increase the way that we disrupt organised crime groups, which we clearly do, one of the areas that would be interesting to look at would be what can we do civilly, accepting everything that Mr McGill said around the challenges of that. Civil recovery and tax may be one of those. The follow-on question, I guess, would be where does a victim sit in that process, and is that a means to an end, if you like, for taking action against a criminal group where you, quite frankly, do not have a good enough case to get to court? The second point on practice overseas—

Q770 Baroness Hanham: Before you go on to that, why would a victim be less stressed by giving evidence to a civil procedure than to a criminal procedure? Whatever it is, they are exposing themselves to the wrath of the people who have been trafficking them.

Liam Vernon: The question for me, not knowing the full ins and outs of the civil procedures, would be to what extent do they have to go through that same process? In court you have a very adversarial process. It is not quite the same in a civil court, so is it something that is easier for the victim to go through?

Steve Wilkinson: Certainly the taxation powers under the Proceeds of Crime Act would allow criminals involved in this, who have made money, to be taxed—part 6 of the Proceeds of Crime Act. Again, the money from that would go into central Government funds. Although the activity they may be engaged in, say, for instance, prostitution, is illegal, the actual money that they have gained from it is still a taxable benefit, which would be looked at by the National Crime Agency when dealing with this sort of case, which we do already.

Q771 Sir John Randall: I think, Mr Wilkinson, in an earlier answer you mentioned other offences, creative ways of getting at this through POCA. First of all, what is the significance of part 7 of POCA with regard to money laundering, and how can the investigating authorities be made more aware of the available options in this area?

Steve Wilkinson: I will start, but I will hand over to Ian because he has more views on this. Certainly, it is raising awareness; it is an educational thing for front-line officers. It is made difficult by the terminology of the Proceeds of Crime Act, which refers to money laundering when, in fact, if you look at the legislation the words “money” and “laundering” do not appear in it. When you are trying to

sell that message to young officers against all the competing things they have to learn, it is a difficult thing; you have to get across to them this concept of criminal property. I think that is probably the same in Greg's world as well as everybody else's. But certainly it is an area of business that we are actively involved in, trying to work with the College of Policing to get that out to the uniformed officers when they first join, right through to senior officers and then, operationally, of course, it is Mr Davidson's teams, and he is probably better to speak on that than I am.

Ian Davidson: The research we have been doing around police forces has found there is very little use made of the stand-alone method of using the legislation on money laundering. Where it is used and where there are skilled staff—I am not just talking about investigators; in the regional asset recovery teams, we have lawyers and HMRC staff as well—when you put those together, we seem to make more use of it, and to good effect. It is a slightly less straightforward way of attacking organised crime but it does have good effect. You almost have to build little blocks of circumstantial evidence along the way to build irresistible inference. I think a lot of local police officers are just not comfortable with that sort of approach until they have some experience of it, and there is not as much experience out there as we would like at the local level.

Greg McGill: I would agree with that from a CPS point of view as well. I run a specialist unit in which there is quite good knowledge about money-laundering offences. In the wider CPS, dealing with much more volume-based crime, there may not be the same level of knowledge. We are trying to build up that knowledge base by training and making sure that, in all cases, the money-laundering aspect is considered.

Can I also mention other offences? We have talked about Italy. Italy has an offence—and I think, sir, you raised it earlier on—of being a member of a criminal group. We do not have such an offence. In fact, we do not have a definition in English law of what constitutes organised crime. We have grappled with it in the past, but have never really been able to get to the bottom of it. Certainly if we could break that, define what is meant by organised crime and define what is meant by an organised criminal group, that could be a way of getting POCA to be much more effective about people who group together to commit serious criminality.

Q772 Sir Andrew Stunell: Is there more that could be done to restrain and confiscate assets overseas? I think you particularly mentioned the question of EU ratification of the Warsaw convention. Are

there some recommendations we should be making to the Home Secretary about the UK Government's action in that respect, and then again are there some practical measures that you think the Bill should be addressing?

Greg McGill: Certainly, sir. The Permanent Secretary at the Home Office indicated that there was a desire to opt in to certain EU decisions. We never formally entered into the two framework decisions in 2003 and 2006 that I mentioned; they are specifically about recognising confiscation orders and making them much easier to enforce abroad. We have been consistently saying that to opt in to those framework decisions would make it much easier. POCA is a very robust UK statute. The difficulty with it is that it does not transfer abroad. Some of the jurisdictions that we have to operate in are much less well defined, and we have real difficulties abroad, especially if the proceeds of crime are cash-based. What we are trying to do is place people in strategic areas around the world where we have significant difficulties in enforcing existing enforcements, confiscation orders, but also helping other jurisdictions build up resilience and capability to deliver on this area of crime, and work in partnership with jurisdictions around the world. That is how we in the CPS are going to try to take things forward.

Q773 Sir Andrew Stunell: Could you provide us with a note that sets out what the increased scope that would give you will be in terms of countries, or types of cases or whatever?

Greg McGill: We certainly can, sir, because the DPP, as I think has been mentioned, was in Spain recently indicating the work that she is going to be doing there. We have identified priority countries, and we could tell you exactly what we are going to do. One of the countries that we are looking to do some work with is Romania, which is one of the priority countries in the EU for this type of offending. We have done some preliminary scoping of work there and we can certainly set out what we have done and what we hope to achieve by that. We could give you our strategy, always accepting that sometimes strategies set out what we will do, but we can tell you and provide that in writing if it would help.

Q774 Sir Andrew Stunell: That would be really helpful to us. Looking more narrowly at the Bill, are there any particular features of the Bill as it is at the moment which you think could be beefed up in order to tackle overseas assets in particular?

Greg McGill: Overseas assets are very difficult, because you are dealing with different jurisdictions. The problem that you would have

with this is the problem that we have with POCA, in that it is fine within this jurisdiction; it is when you go abroad that you have the difficulty. Certainly, I would support the move to include real property as part of the seizure under the Act. I think that would be useful, and the things that we have already described that help us when we obtain orders here; having those orders easily enforced abroad would really increase our ability to operate effectively in foreign jurisdictions.

Q775 Sir Andrew Stunell: You have some teams located in specific countries overseas at the moment.

Greg McGill: We have. "Teams" is probably putting it at a high threshold; we have some individuals.

Q776 Sir Andrew Stunell: Okay. Do you foresee them being able to play a role in terms of the modern slavery issues that we are dealing with?

Greg McGill: Absolutely. It has already been indicated that perhaps the orders that we have outstanding at present probably do not reflect too much human slavery work. They are probably based on drug trafficking and various other offences, but, as we go forward, building that capability and putting those individuals in priority countries will help us enforce any confiscation orders that we get in this country relating to this type of offending. Going forward, I think it certainly will help, yes.

Sir Andrew Stunell: Thank you.

Q777 Lord McColl of Dulwich: You mentioned property. What about vehicles and premises and so on?

Greg McGill: Yes. We would support that. There are some legal complexities with that. One of the things that we have found, certainly with POCA, is that POCA sets out a number of expectations, but lawyers are very capable at picking holes in legislation. One of the challenges we have is that, when we are seeking to enforce against assets, we can often get involved in quite complex civil litigation about actually who owns those assets. That can slow down our enforcement of orders, and make the orders, in the end, less profitable, because we have had to expend quite a lot of money in civil proceedings. But in general terms, yes, we would support it, realising that there is always a limitation as soon as you get involved in court proceedings.

Q778 Lord McColl of Dulwich: What about these lawyers who really behave unethically in helping the criminals to stow away all the assets?

Ian Davidson: What we missed with that point, and what was missed before, is that there is provision under section 328 of the Act and other provisions—but particularly that one—on arrangements and helping people. The problem we have found around some of the professional enablers is developing the intelligence to be able to identify them effectively. That is something we are grappling with at the moment, along with the agency. It is almost that we miss those people on the periphery sometimes, and we need to develop our intelligence better; but there is some legislation within the Act to deal with those sorts of people. It is not as though there is a complete legislative gap. There are things like tipping off within the Act as well. I do not see it as too much of a problem. It is identifying them in the first place that we find is the problem.

Q779 Fiona Mactaggart: Clauses 7 and 8 are designed to avoid some of the problems we have been talking about, in that you do not necessarily have to prove ownership of vehicles and so on. But one of my concerns is that it is quite limited in terms of what can be seized—things which have been used to move people across borders. I am interested in how you think you would use those clauses, and whether you think that there might be other powers which can be used in the same way, so that tools which are used as part of the process of this crime could be more easily seized.

Steve Wilkinson: There are some operational issues around this that you have to bear in mind as well. If you seize a vehicle today that has been used operationally to traffic people—let us say, for instance, we are talking about an articulated lorry or something like that—obviously we have to store and maintain that vehicle and it is a depreciating asset, which eventually you want to turn into capital to give back to a victim. That has created problems for police forces for many years around seizing assets, particularly when you look at high-value vehicles. Someone might have a Ferrari or something like that; the cost of maintaining a Ferrari for two years while you are waiting for a court case to take place, and what it is worth at the end of that two years in order to be able to turn it into something that you can then give back to a victim, makes it a depreciating asset. We have all bought vehicles, and know how little they are worth in a couple of years' time. It does create some problems. It deprives the criminal of the asset to be able to use it to carry on conducting their criminality, and it also sends out a very strong message that, "We are going to take this from you," but it creates a lot of operational problems for policing storage and costs of

storage and all that goes with it. I think it is very worth while; it is something that is very useful to prevent people using those vehicles again, but it does have those problems. There is other legislation planned within the Bill—changes that were alluded to earlier—to be able to seize assets and use them in satisfying the confiscation order, which is legislation that will come into the Proceeds of Crime Act later on. But still we have that issue of how you convert them into real money that you can then use to give back to victims.

Q780 Fiona Mactaggart: When I hear police officers saying that it is going to be difficult to do something, I think that means it is not going to happen. Tell me how this will actually happen.

Steve Wilkinson: We will take the vehicles from those people. I am just trying to manage the expectation that there is going to be lots of money that you can give back to victims. That is the issue. When you seize a high-value vehicle, it is not worth much in two years' time.

Q781 Michael Connarty: We had an example yesterday from the Ambassador-at-Large for the US about a case which he was very proud of where they instructed all the assets of a perpetrator to be taken, including his house. I have been thinking about that ever since. I cannot imagine a situation in Europe, given the human rights laws, where you could actually say to somebody, "We are going to sell your house and put your family on the street." I cannot imagine that happening. Would it happen? If someone was clearly living in a mansion that they had got from the assets of crime, could you seize a house from them if their family were living in it?

Greg McGill: If it was part of their realisable benefit under POCA, yes, but the judge would have to—

Q782 Michael Connarty: What happens to their family?

Greg McGill: The judge who is hearing it has to make quite difficult decisions about making that order, because he or she would have conflicting priorities under various bits of legislation. POCA is quite a draconian statute and would enable you to seize the house, but there are other things you would have to take into consideration in doing that.

Q783 Michael Connarty: We cannot get murderers out of the country because of human rights laws. I go to the Council of Europe so I

know how difficult it is to effect a legal transaction that goes against human rights laws.

Greg McGill: In respect of land vehicles and sea vehicles, we have to put an element of realism into this. Some of these people are trafficked in quite appalling conditions in transit vans that are worth very little, or in ships and aircraft that are barely seaworthy or airworthy. A prosecutor and an investigator have to make quite difficult decisions about the proportionality of seizing those vehicles. Ultimately, if it is going to cost us more to seize and store them than we would get, they are quite difficult decisions—

Michael Connarty: I understand that.

Greg McGill: That is why I would support, I think, seizing real property, because that is much more valuable and enables us to make much better decisions.

Q784 Michael Connarty: I have remarked often, Chairman, that the ice cream war criminals in Glasgow live or lived in the biggest houses and some of the nicest villages in Stirling district. They still own those houses even though some of them are now dead, having murdered each other or died in jail. But no one ever got their assets off them. Their families still live on in the lap of luxury.

Greg McGill: As the Permanent Secretary said, and I think we would all say, although significant progress has been made under POCA, we have considerable ground still to go.

Q785 Baroness Butler-Sloss: I cannot see why you cannot sell the property and give them enough money to rent. I would have thought that was the sort of approach we should be suggesting.

Greg McGill: You could. Any judge would have to have the Human Rights Act in mind, not just for the defendant but for dependent people as well. It is quite a complex decision that a judge has to make, but there are circumstances in which you can do that.

Q786 Sir Andrew Stunell: If your car isn't taxed, the police take it away and crush it. Why aren't we looking at the same sort of thing? It seems to me that recovering the money is important, but actually teaching people a lesson is also part of it, as we do with taxing a vehicle.

My second point is about seizing property. Property, at least in this country, is not usually a depreciating asset, so we do not need to worry too much about that. If we look at all the cannabis farms which are raided

and the houses they are in, should we not simply be seizing those and putting them back?

Liam Vernon: I think there is an element of the impact and disruption that you have on an organised crime group, as well as just seizing it to sell for the benefit of victim compensation. That is really critical when you are targeting organised crime groups, whether they are the high priority ones or the cases of human trafficking, when quite often they are not as sophisticated as the drug trafficking groups. If you can go after some of the assets that they are using—for example, taxis to ferry UK girls around the country, trafficking for sex, or fishing vessels where men are being trafficked and exploited in that industry—and it is their livelihood, you could take that off them using this legislation,. I think this legislation would be used as a disruptive method as much as any other method. If that is the intention behind it, I think that is really positive.

Q787 The Lord Bishop of Derby: I think you were here when the Permanent Secretary was in his Sir Humphrey mode about ring-fencing. I would like to ask you about the whole principle of ring-fencing money from the proceeds of confiscation orders, in terms of both ring-fencing for the police and also ring-fencing for the support and compensation of victims. I would be interested in your views about that principle and how it might operate.

Liam Vernon: I could talk about the principle rather than the legality, but this is from an operational perspective. In terms of trafficking investigations, two examples were touched on that I have been involved in, one in Bedfordshire and one recently in Cambridgeshire. Those particular cases were very resource-intensive for the police service and other agencies, hence they are very expensive. They were long-lasting investigations involving a lot of time and money spent looking after very vulnerable victims and witnesses—dedicated resources that, quite frankly, I am not sure the police had the funding up front to deal with. It was a tough decision, I think, for the force in terms of how they were going to deal with these cases. We are seeing more and more of those, particularly in labour trafficking cases where you tend to get large numbers of victims rather than one or two. If we are talking about support for the police service and other agencies as well—NGOs and charities who assisted in those cases—to be spent on those types of investigations, to reinvest back into supporting in the communities and to be spent on specialist resources, such as interpreters and the travel costs involved in going overseas to engage with local police forces, there is something to be said for looking at how additional resources, in terms of funding, can be obtained and provided.

Q788 The Lord Bishop of Derby: What about victims—ring-fencing for victims?

Liam Vernon: For me, the principle is that if there is a victim of trafficking and there is a way in which they can receive appropriate compensation, morally that is the right thing to do. It is about how you bring that about, whether it is through the criminal injuries compensation that exists at the moment, through the end of a court trial and an order by the judge or some other method in which there is a central pot of money.

Q789 The Lord Bishop of Derby: I think one of you just implied that sometimes it might be more cost-effective not to go for a trafficking offence but some other kind of offence, which of course would not release much for victims if they are not identified in that way.

Liam Vernon: That is one of the challenges around human trafficking specifically. You go where the evidence is, and if the evidence does not point to a trafficking conviction, or it is a substantive offence—for example a sexual assault, a false imprisonment, money laundering or benefit fraud—that is naturally where the CPS and the police service will take the prosecution, particularly if the victim is not in a position to give evidence, or where you require other evidence so that you have a conspiracy offence.

Ian Davidson: I do not think anybody would argue with the principle that you would try to put some resources to support victims. That is a given, but today, just speaking from a police perspective, as we have said before, police finances are in a bit of a parlous state, and there is reliance to some extent on the incentive scheme as it stands. If that was interfered with in any way, I can more or less guarantee that some specialist financial investigator posts would go, and it would almost be self-defeating, because they are some of the key people that make the proceeds of crime legislation work. It would almost be a downward spiral potentially; you are caught between a rock and hard place in some senses on this, because you want to give more to victims but then it could impact on how they are served later. It is a difficult one, and it is a difficult one for the Home Office for the same reason, as Mark Sedwill alluded to.

Chairman: We will end on that sober note. Thank you very much for your evidence. We are really grateful to you.

Examination of Witness

Witness: Myria Vassiliadou, EU Anti-Trafficking Co-ordinator, European Commission, examined.

Q790 Chairman: Myria, welcome and thank you for making the effort to get here to be part of our inquiry. Might you identify yourself for the record and then Elizabeth will begin our questioning?

Myria Vassiliadou: Yes. I am Myria Vassiliadou. I am the EU anti-trafficking co-ordinator on behalf of the European Commission.

Q791 Baroness Butler-Sloss: Could I add my thanks? We are extremely grateful that you have taken the trouble to come and talk to our Select Committee. We are engaged, as you know, in trying to produce a Bill, which will be an Act of Parliament, which will be useful right across the United Kingdom, and we hope will be helpful further away. We have had a lot of people come and talk to us, including the American Ambassador on slavery, who spoke to us yesterday and liked our Bill, though not necessarily the wording. What I would like to ask you about is this. We are looking at the fact of enslavement, the fact of someone being in a situation where they have no control over their own lives and where they are extremely badly treated. We see trafficking as the movement of people rather than the fact of enslavement. We are looking at the phrase “exploitation,” which would then be divided into the person who is enslaved, the person who is trafficked from one country to another, the person who is exploited, forced labour, domestic servitude and so on. Of course, I have a copy of the directive, which we know that you largely drafted, and which we are now signed up to. How would you recommend that we should actually define modern slavery in our legislation?

Myria Vassiliadou: Thank you for inviting me, and for taking the time. Thank you very much for your interest on an issue that we are very keen, of course, to see all the member states of the European Union engage in.

I want to say a few things about the legal framework that we have at the EU level and indeed draw some possible caution in relation to definitions. The way we understand it, at the EU level—with the member states—trafficking, first of all, is of course a gross violation of human rights, and it affects predominantly people in vulnerable positions. It takes many forms. That is important to take into consideration legally and beyond. We have to remember—I think this is in the context of the work that you are doing—who is likely to become trafficked, or “enslaved” in your words. These are people predominantly who are vulnerable to poverty, who come from less democratic cultures where there is a lot of gender inequality, where there is violence against women and where there is conflict. It is about vulnerability; but it is also about, of course, a very lucrative form of crime. I want to

remind the Committee—I am sure you are all aware—that in Europe trafficking for sexual exploitation alone is worth €2.5 billion per year for the traffickers. Of course, globally, we are talking about €25 billion profits for the traffickers.

The other thing I want to draw caution on is the fact that we keep going on about how trafficking human beings, or slavery—I will come to that in a minute—is a severe form of organised crime and, as that, it is hidden and therefore we do not know a lot about it. I would agree with that. Of course it is a crime, and this type of crime is very hard to detect, but I think it happens a lot more than we tend to think. When we see a five-year-old boy in the street begging, when we see somebody who has just appeared building a house next door, rather than a company, or when we see a young woman in street prostitution, we need to think twice about that. One of the things that we need to think about also is the fact that 61% of the victims of trafficking are EU citizens being trafficked in the EU. This is very relevant for the discussion today and for your Bill. These are statistics from Eurostat, from information that was given by the UK as well as all the other member states. We need to pay attention to that.

In my capacity as EU anti-trafficking co-ordinator, I have been speaking to a lot of the member states, I have been working a lot on the directive—I will come to that—and what I have indeed understood is that definitions matter a lot more than we care to accept sometimes: definitions in our everyday language, but of course in the legal framework. I am very happy that the EU definitions have really spread and that a lot of international organisations use them right now—member states, civil society and so on. I remember when we started the EU strategy on the eradication of trafficking, I was talking about eradication and people were saying, “Come on, you cannot talk about eradication,” and I was saying, “What are we going to tell the victims—we want to just have a few less victims?” We have to have an ambitious approach, but this is not law.

When it comes to legal definitions, I will not give an analysis of slavery versus trafficking—I think you have a lot of legal expertise—but I really want to draw a lot of caution on that. I want to draw a lot of caution because they are not the same thing. “Slavery”—and I quote—together with “trafficking” is prohibited in the EU charter of fundamental rights, as part of the treaty; it is article 5. But they are two distinct legal phenomena. It is not about whether one is worse, better or different; they are distinct legal phenomena. Where they are distinct is that, legally speaking, it is about issues of powers of ownership and this is where it becomes crucial; I have said that a number of times in the UK in the last year. Not all trafficked persons will necessarily be slaves, and I think that again is something to highlight. We need to ensure that all

forms of trafficking are addressed in any legislation attempting to address the phenomenon. The links between trafficking and slavery, as well as the consequences for the member states with regard to their human rights applications, have been considered in many cases in international and regional law. Again I want to draw caution in using the two terms interchangeably.

I will come very specifically to the EU directive. I think the EU—I hope I am speaking to a friendly Committee in these terms—has the legal instruments, the policy framework and the funds to deal with trafficking. If there is one area across the EU we cannot deal with on a member state-alone level, it is this issue, because most of the time trafficking in human beings has a transnational element. It is not always the case, but it is in the vast majority of cases. So we need an approach—

Q792 Chairman: Can I stop you there? Resources are going to be a real restriction on the Government's activities. When you say there is money to deal with this, how much money would we as a country be able to ask for?

Myria Vassiliadou: It is not about the member state asking for money. We have a new financial framework starting in 2014. What we have ensured is that in different budget lines, if you like, in different services, ranging from development, co-operation to home affairs and so on, there is money allocated.

Q793 Chairman: To whom? To member Governments or to the state?

Myria Vassiliadou: It is predominantly to the member states, yes. The way that a lot of the programming will work is that it is predominantly to the member states. We have struggled to make sure that this happens, because at the end of the day what we need is proper implementation of EU law, and this is appropriate.

I want to remind everybody that this legislation, of course, is human rights-centred and very gender specific. What it aims to do, and it is the first legislation to do that and is not "just" a criminal law piece of legislation, is to prevent the crime—I want to stress that very much; it is a big part of the legislation—and to protect and assist the victims. It does take a zero tolerance approach, if you like. Victim protection and the principle of non-punishment for petty crimes are fundamental. I can elaborate on that later if you think it is necessary.

I can tell you that up to now 20 member states have transposed this legislation. They have translated it into national law. It is one of the very few times that the European Commission has taken a very proactive approach on this file. Already we have launched—we have the start of—infringement procedures for member states that have not done their job. The reason is that we are talking about slaves. We are talking of modern-day slaves, about people suffering; we are not talking about issues that might have a longer-term effect. While we are here discussing, there are people who are exploited somewhere; and they are sometimes murdered and sometimes go missing.

The UK has notified the Commission of transposition and we are, of course, very happy about that. What I can say is that our assumption is that the EU directive, according to what the UK has transmitted to the European Commission, has already been translated into national law. It has been transposed. We want to take this for granted, although of course we are studying it, and we have launched a study to ensure conformity with the legislation. The deadline for transposition was 6 April, and this is what we have received from the member states. But for me this is the legal part, and we do not need laws unless we are going to implement the laws. So for me the minute that any member state has notified transposition of the legislation, it means that implementation starts; without implementation we might as well not pay attention to the law.

Q794 Chairman: Can I interrupt? Elizabeth, to what extent do you not accept this line, that it is all hunky-dory in Europe so we do not have to worry about this Bill?

Baroness Butler-Sloss: The difficulty is, from the point of view of the United Kingdom, that we are transposing, if I may say, the guts of the directive into our own language for our own barristers, police, judges and, most important, the ordinary members of the public who sit as juries on these very serious crimes. It is no reflection upon the directive that transposing and signing it does not mean that we should not in fact use our own language for our own legislation.

Myria Vassiliadou: Absolutely.

Q795 Baroness Butler-Sloss: But our legislation will of course reflect what matters in the directive.

Myria Vassiliadou: Yes. First of all, it is not the EU's business; it is not the Commission's business. I want to remind everyone that the EU directive is about minimum standards, and of course the way that this

is translated into national law is subject to interpretation, and certainly I am not the court of justice to make that decision for you or for the Commission. Whether or not these minimum standards are being kept is exactly what the Commission through its legal services is examining right now. Taking legislation further, or further emphasising different aspects of the legislation, is certainly up to the member states completely to decide. It is about meeting those minimum standards, and it is within that context that I spoke about not using “slavery” and “trafficking human beings” interchangeably. There is nothing stopping—

Q796 Baroness Butler-Sloss: What we are hoping to do is to put a general word at the top—currently, we are talking about the word “exploitation”—and then we will have a list, which would not, of course, be definitive, because it has to be open-ended, of people who are trafficked, who are enslaved, who are in forced labour, who are in domestic servitude or who are begging, for instance. All of those would be part of that. But it is the view of our Government that the Bill should be called “modern slavery,” and we do not have any choice in that. What we have to do is go through the wording of the proposed legislation and advise our Government. We are all parties here; we are not one party.

Myria Vassiliadou: Of course, I understand that.

Baroness Butler-Sloss: We have to advise our Government as to whether or not what is in the content of the Bill is what should go forward. But I do not think any of what we are proposing would be in any way contrary either to the spirit or indeed the actual wording of the directive.

Myria Vassiliadou: And it is none of my business to reply to that, in the sense that the only thing I think I need to do is to convey the message that the UK has already submitted formally to the Commission notification of transposition of the directive. I have to take that in very good faith unless our legal service, which is composed of many people—certainly I am not the person who will be doing the legal analysis—has a disagreement. The understanding is that our member states have signed up to the commitment and are implementing it.

Chairman: Myria, we are going to move on from there. Caroline and then Joan.

Q797 Mrs Spelman: There is a parallel issue. In the directive, at article 14 it states clearly that member states shall ensure that victims are protected from prosecution. We have unearthed a legal problem: it is more difficult, legally, to guarantee protection for the victim than it is to

guarantee victim care and victim services. The victim care and victim services route is the way the American system has found to resolve that issue. This is rather a similar argument to the last question, that we would reflect in our law what you set out to achieve, which is the protection of the victim, which we all know is really important to get prosecutions, but we are also going to be wrestling with that. Could you give us a glimpse, perhaps, of how other member states are interpreting this article on victim protection?

Myria Vassiliadou: I am sorry I cannot be helpful, and it is not because I do not want to be, but all the member states are now submitting their transposition.

Mrs Spelman: It is too early.

Myria Vassiliadou: There is no way. By 6 April 2015, the Commission has to submit a report on this transposition, so it is two years after. It is a little bit like going to another member state and saying what the UK is doing. That I could not possibly do.

Q798 Mrs Spelman: Which member states, in your view—you will know they are preparing—are likely to produce best practice in this area? We want to know who to talk to. We know the Netherlands and Finland have already established rapporteurs; we know that. Do you have a little bit of a view as to who is—

Myria Vassiliadou: I have a clear view of that. I have 20 member states who have notified transposition of the directive. I am sorry to be legalistic: article 19 of the legislation says, and I think it is important to clarify, that the member states have to establish “national rapporteurs or equivalent mechanisms.”

Mrs Spelman: Absolutely.

Myria Vassiliadou: Whether a member state—this needs to be very clear—wishes to establish an independent national rapporteur or not is really not for the European Commission to say. What these national rapporteurs or equivalent mechanisms have to do is report by 2015, and there are a number of areas in which they have to report. We have this understanding that only two member states have national rapporteurs. In reality, I am chairing a network of national rapporteurs or equivalent mechanisms where every single member state participates. Some of them say they are not formally established, but the vast majority have established these bodies. Whether they are independent or not, it is beyond my confidence to say.

Mrs Spelman: I understand.

Chairman: Myria, I want us to stay for a moment on victims. Joan.

Q799 Baroness Hanham: Yes. We have been talking about victims—Caroline has raised this—and you have been talking now about bringing people together on this. What we would like to know, bearing in mind our Bill—I do not know whether you have had an opportunity or anyone has had an opportunity to advise you on how we are proposing to deal with victims; Caroline raised it a bit—is whether there is anything in our Bill which you think does not fulfil the directive. Secondly, talking to people in other states, and I understand that there are not many actually doing anything, are you able to co-ordinate, or will you be able to co-ordinate in some way, all the elements of the directive, but particularly these elements on victims?

Myria Vassiliadou: Okay. I can simply repeat what there is in articles 11 and 12 of the directive on victims. There are a number of elements there that are very clear and, as I said, provide minimum standards. I have neither the competence nor knowledge to comment on the Bill, in the sense that I just have to take for granted that the minimum standards of the directive are met. Maybe the timing is a little bit tricky; I obviously have opinions on things, but that is not for me in my position to stipulate, and that is why all I can tell you is to go to articles 11 and 12 of the directive. In terms of co-ordinating the work, once we have the report of the Commission on how the member states have transposed and conformed to the legislation, we will be able to draft a thorough report, for the first time in any legislation of the EU, which we call the article 20 report, which is a report on the state—the situation—of trafficking in human beings across the EU and the member states. My job will be precisely to take from the member states their reports at the national level and do just that.

I think it is very important that you are discussing this issue. I do not think it is in any way against or contradictory to the scope of the legislation, but I really want to draw caution on ensuring that these minimum standards are met. That is the only thing I can say.

Q800 Baroness Hanham: I think we have all taken the point about minimum standards. What we are really anxious to tease out from you is if there is anything more we should be doing, because this is draft legislation and we are advising the Government on what should or should not be included. As I said, it may not be a question you can answer, and if so please say so, and you are not into the detail of our Bill sufficiently, but, very broadly, we need to try, and are trying, to pick out that we have adequate provisions.

Myria Vassiliadou: I can highlight some of the elements. I hear a number of member states asking similar questions, although I do not have the answer for the member states. For example, the victims of trafficking have to have access to legal counselling and representation, also for the purposes of claiming compensation; and they have to be free of charge when the victim does not have sufficient funds. That is one thing that I could highlight. The directive asks member states to make sure that victims are sufficiently protected during trial, and this has to be done—this is quite groundbreaking, I think, for EU law—based on an individual risk assessment. Then it goes in depth about what that means, things like avoiding visual contact between the victim and the defendant, and so on. There are a number of things.

Baroness Hanham: That is quite detailed.

Myria Vassiliadou: It goes into that detail. In terms of assistance and support, it talks about early provision, providing assistance and support as soon as competent authorities have reasonable grounds or indication to believe that the person is a victim. Other elements are, again, the individual risk assessment, to go into depth on that, and then to grant special treatment to particularly vulnerable victims such as pregnant women, victims with a disability and children. They all fall into the category of particularly vulnerable groups. There are a number of elements like that, and these I can highlight. There are very specific provisions on children, including the legal guardianship of children.

Chairman: I am becoming more aware, in a sense, of what you are able to tell us, given your position. What I would love to do is to concentrate on children, on the data gathering and on supply chains, so I want Dee to come in on children.

Q801 Baroness Doocey: Can I ask a specific question? Do you believe that it is necessary to have a different way of dealing with children who are victims of human trafficking than adults who are victims of human trafficking?

Myria Vassiliadou: Yes, I believe that, and that is what the directive also stipulates to a great extent. I do believe that.

Q802 Baroness Doocey: Do you think we should be looking to have a separate legal offence that would deal with child trafficking in a different way from how we would deal with adults?

Myria Vassiliadou: I think there need to be specific legal provisions. I do not know if there needs to be a different instrument altogether. That

is subject to how you want to draw your legislation. But I think there need to be very specific provisions especially for children. That is clear.

Q803 Baroness Doocey: Could you give us an indication of what you think those should be, and how they would differ from the provisions for adults?

Myria Vassiliadou: There are a number of things. The whole mantra of the legislation is to take a child's best interests as being of primary importance. There is the issue of appointing a guardian for the child. I do not want to miss some of the important things. Assistance and support should be given based again on an individual assessment of the child's circumstances. Access to litigation: in legal proceedings child victims must be protected especially in specific environments, and so on. There are special provisions on unaccompanied child victims.

I want also to highlight the fact that there is different EU law on the sexual abuse and sexual exploitation of children and on child pornography that links to an extent with issues of trafficking. There are a whole lot of provisions for different kinds of abuse—sexual exploitation and organisation of travel arrangements for the purpose of committing sexual abuse. This is relevant in cases of child sex tourism and so on. One could look also for, if you like, inspiration in that piece of legislation, which I am not responsible for, but I think you can draw links to it.

Q804 Fiona Mactaggart: One of our concerns is that because this is criminal activity the data and information about it is poor, inevitably. One of the things that we are trying to think about is how you can improve the quality of information and data. We are not, in a way, looking for the legal framework, but actually what in practice can be done to give better quality of information. I was wondering if you had examples, suggestions or proposals of good practice which could improve the quality of data and understanding.

Myria Vassiliadou: Okay. I am sure you are aware of the Eurostat report.

Fiona Mactaggart: Yes.

Myria Vassiliadou: Actually it was the first effort, at the European legal level, to do our job, and I think it was a very indicative attempt. Many people choose to say, "Oh, it is not reliable data," and so on. What is very good about the data, and I think it is very reliable in that sense, is that it does not talk about the extent of trafficking in Europe today. It talks about the numbers of identified and presumed victims

according to police authorities and other authorised officers. In that sense it is very indicative. When we talk about how many victims were identified for sexual or labour exploitation, these are facts, so it is not estimates—which I equally respect—from international organisations and bodies. We have to accept that.

The next thing is that we received data from 2008, 2009 and 2010. We received a lot less, and worse quality, if you like, information in 2008 than in 2010. What I am saying is that I think that the member states are catching up on this work, and it is improving.

Q805 Fiona Mactaggart: Are there any states where that progress has been fastest? Do you see what I mean?

Myria Vassiliadou: Yes. The Eurostat report is not a secret. What I can tell you is that different member states are able to provide better information on different forms of trafficking—for example, because of the situation in the member state and so on. What is very interesting to me is the fact that, as I said before, 61% of the identified victims are EU citizens, predominantly within the EU from Romania and Bulgaria. That we know. I think that we now have the second collection of data. We are making an effort to include more indicators, and some member states say, “Oh, more indicators. How are we going to find that?” The reality of it is that we are asking for 10 and we receive five, but in 2008 we received very little and in 2010 we received a lot more. What this network of national rapporteurs, or equivalent mechanisms—to be correct—has done, and has done very well I think, is co-ordinate a lot more of the work that we do. We have the Eurostat report that comes from the statistical authorities, but, once you have better co-ordination at the member state level, it means that the information does not reach the statistical authorities only from the police. We have, for example, NGOs that gather this information. We have other services and front-line officials that need to be co-ordinated.

One of the things that we need a lot more of—I think we are getting it gradually at the member state level and hopefully EU level as well—is more co-ordination of the gathering of these data. In terms of the quality of data, we are working very closely with Europol, for example, with Eurostat and with different EU agencies that can co-ordinate the data better. What we hear from Europol—I cannot speak for Europol—is that they have received so many case studies on trafficking that they even find it hard to analyse, as opposed to a couple of years ago. This speaks volumes. It could mean that there is a lot more trafficking going on, and I dread to think that; but it also means, in my opinion, that we are becoming a lot more aware and informed. With the work that you are doing in this Committee, for example, you are creating more

awareness at various levels. I think that the quality of the data is improving. That I am confident about. I think it is a little bit dangerous to completely dismiss it and say, "Oh, it is just data," the first time that we have it. I heard people dismissing Europol data, but this is intelligence-gathering from the law enforcement authorities. I am not saying it is 100% reliable, but there are trends. What I have seen is that the Eurostat data, with the United Nations data, and other data and estimates, are consistent in terms of trends. We have to take that, be respectful and follow. Yes, it is a hidden form of crime, but I could say the same thing about drug trafficking. Where do we draw the line? We have to collect the data.

Q806 Michael Connarty: I have two short questions to clarify some of what you have said. We got evidence earlier from the police authorities that, if the law said modern slavery is exploitation, that would be very clear to them, because you would then know who was the exploiter and who was the victim. If you were guilty of exploitation, you were not a victim. If you were a victim, you were subject to exploitation. Would you agree with that?

Myria Vassiliadou: I would tell you—it is also connected to the data question—that the ILO talks about data estimates on forced labour. We talk about trafficking human beings.

Q807 Michael Connarty: We got evidence from Lord Judge, one of the highest judges in the land, that trafficking is the movement of people or assets from place to place. It does not encompass all the forms of modern-day slavery; it is only a subset of slavery.

Myria Vassiliadou: With all respect, this is not the definition in the EU directive. The definition in the directive does not imply the movement of people. This is also a political question, because a lot of people used to—I hope less now—conflate human smuggling with human trafficking. Human smuggling *de facto* means the transport of people from one place to the other, movement of people. When it comes to trafficking, this transport of people is not, according to the legislation, necessary. Therefore, I think it very much links. It is not even subject to interpretation. In terms of the—

Q808 Michael Connarty: Maybe the EU definition is wrong then.

Myria Vassiliadou: That is not for me to say. It is what the member states negotiated before I arrived.

Q809 Michael Connarty: The second question is up to what age should someone be treated as a child?

Myria Vassiliadou: Yes. That is another very good question, and the directive is very clear. The directive is clear in the sense that when we do not know the age of the child—they are always 18—presumption of childhood is taken for granted. When we do not know, we assume they are always a child and this is what the legislation says.

Q810 Michael Connarty: But what is the age, if you do know it?

Myria Vassiliadou: It is 18.

Q811 Michael Connarty: Would you ever expect a trafficked child to be criminalised and to be in a young offender institution?

Myria Vassiliadou: No.

Q812 Michael Connarty: There are lots of them in the UK, particularly people who were brought here to work as farmers in cannabis farms. I have three in my constituency at a young offender institution. So that clarifies that. Could I move on to my main question, because I think it is important?

Myria Vassiliadou: Actually, it is not only for child victims. If I may, I mentioned at the beginning the non-punishment law. Member states have to ensure that measures—provisions—are in place for victims not to be criminalised as a result of offences that they committed because they were victims of trafficking. Of course, it allows a space for the judge to decide whether that should be the case or not, but the provisions should be in place so that the victim is not criminalised, with the understanding that not every single crime is above punishment.

Q813 Michael Connarty: I think we are all quite clear that people who are brought from Vietnam and stuck into cannabis farms are not criminals; they are victims but, unfortunately, they are treated as criminals.

I will come on to my main question. I am interested in the extra-territoriality of this throughout Europe, and I will give you an example. You know about the collapse of the Rana Plaza in Bangladesh.

Myria Vassiliadou: Yes.

Q814 Michael Connarty: A German company that sells very high-quality sportswear is one of the great customers of the companies there, for example, so I am very interested in how we get EU states to address the question of workers exploited and enslaved. Some of the examples were women working in factories where chains were on the doors and they burned to death, because they could not get out when there was a fire. They were supplying companies in the EU. Have you looked at the California Transparency in Supply Chains Bill? We got some very good evidence from—I do not know if you worked with the gentleman—the Ambassador-at-Large for human trafficking for the US.

Myria Vassiliadou: Yes, of course, Mr CdeBaca.

Q815 Michael Connarty: They have seen a great deal of progress since the California Act and other Acts that they have passed to forbid trafficking, and basically the use and abuse of labour by companies that are in the US but supplying goods from overseas. Would you support legislation or something in our legislation that actually advanced the principle that supply chains must be audited and reported on, and action taken to eradicate exploitation in the supply chain, as well as in the EU country itself?

Myria Vassiliadou: There are two elements to answer in that. The first one is that in the directive again—quite groundbreaking—article 5 says, “Member States shall take the necessary measures to ensure that legal persons can be held liable for the offences referred to in Articles 2 and 3.” Basically, for the first time, businesses are held legally liable, according to the legislation. Within that context, we are trying to put together a European business coalition that we will launch before the end of the year, where we hope to increase commitment in terms of how our EU companies deal with their responsibilities vis-à-vis their supply chains. Of course we are talking also about trade law and other elements—the internal market, and so on—but what I can tell you is that the legal liability for companies is stipulated in EU law. We want to engage, and, if you like, support that by putting this business coalition together and, hopefully, to go beyond corporate social responsibility and see how we can commit in the best way possible. We are very aware, and keen to do that.

Michael Connarty: Thank you very much.

Q816 Mrs Spelman: I have a tiny point. Obviously British companies that do business in America are now required to conform to the California Act, which has the effect of covering all states. There are already, undoubtedly, a lot of European corporates that will be doing business in America that are required to conform to transparency in the supply chain. Just to share with you, you said we can go further than the

directive—I am sure we will be completely compliant—but one of the things that occurred to us was, to get this into the boardroom of a European company that is not yet trading in America, to require one of the directors or the chairman to be responsible for compliance with that Act. That is what we are thinking about. You do not see a big problem with any of that. No? Good.

Myria Vassiliadou: What I can tell you is also that our legislation—I was trying to look for the article, and I cannot remember the article number, I am sorry—provides for extra-territorial jurisdiction. Going back to your question, this is again a provision in the legislation. I do not come here as a Eurocrat trying to promote the directive. I come here trying to promote legislation that civil society is promoting. We rarely get that, if I may say so. Every single actor I have seen working on this legislation says that this is one very good piece of legislation that has come about because it is so comprehensive. In fact the challenge is to find things that are not already included in the legislation, and I think the member states can be proud of having put such ambitious legislation forward.

Q817 Michael Connarty: Things get lost in translation, or transcription.

Myria Vassiliadou: There are 23 languages, if not more now.

Chairman: I would like to bring you back to the theme that Dee was touching on earlier. Ian, will you complete our questioning, please?

Q818 Lord McColl of Dulwich: Does the requirement to provide guardianship to child victims of trafficking need to be incorporated into our Bill, and how have different member states approached the issue of guardianship, please?

Myria Vassiliadou: Article 14.2: “Member States shall appoint a guardian” for the child, and in legal proceedings child victims shall be protected similarly to adult victims with additional protective measures applying, and so on. It is very clear: “shall appoint a guardian” for the child. This is the minimum standard according to the legislation. I am not the legal expert here, but I understand this has meaning, yes.

Q819 Lord McColl of Dulwich: How have other member states dealt with that?

Myria Vassiliadou: That I cannot say before we have the report, in the same way that I would not comment on the UK and other member states.

Q820 Chairman: When will you get that report, Myria, do you think?

Myria Vassiliadou: According to the legal requirements, before 6 April 2015. In the same way as you are working—and I thank you for that—a lot of other countries are doing similar initiatives, and therefore they are still in discussions about how best to work to implement the legislation. Many member states are working in the same way.

Q821 Chairman: Brilliant. Myria, thank you so much for coming and giving us your time. I hope our replies to you when the Government submits its findings will be also a lead for your work. Thank you very much indeed.

Myria Vassiliadou: Do I have one or two minutes?

Chairman: Yes.

Myria Vassiliadou: One of the things that some NGOs drew attention to in my last visit to the UK was the issue of prevention, and I just want to highlight that, because we talked about prosecution. There are three strands. We talked about prosecution and we talked about protection; the other element, the other piece, is prevention. I just want to highlight the equal importance that needs to come into that vis-à-vis what we call article 18, which some people call the soft law of the directive, and which obliges member states to take action to reduce demand. It is actually a legal obligation to do the utmost to reduce demand. It also asks member states to consider the possibility of criminalisation where the user knowingly uses the services of a victim of trafficking. This is one of the three reports that will come out of this directive in 2016. This is for all forms of exploitation.

When we talk about labour exploitation, can you think of another type of crime where the user knowingly gets involved? I like handbags, so I always use the example of buying designer handbags in the street for €10. If you buy it and you knowingly get involved in that, would you not be criminalised? In any other area where you get involved in a crime, you are criminalised. We are thinking very hard at the EU level in terms of how that relates to labour exploitation and sexual exploitation equally, but how one deals with it is equally problematic. I am saying that, because prevention is the one area that I have not been asked questions on, and it is again about minimum standards in the legislation. So I just wanted to—

Q822 Lord McColl of Dulwich: It is the law here that you cannot pay for a prostitute who has been trafficked. That is already in law here.

Myria Vassiliadou: Yes, but I am only talking about victims of trafficking and where the user knowingly makes use of the services. I want to draw caution on it, because people think that it is just about sexual exploitation—not “just about” because it is not a small topic—but it is about all forms of trafficking and, increasingly, it becomes an issue. If I may, I will use your words on the cannabis industry, for example. When you go—I do not know, but I am imagining; I do not know if it happens as it is an imaginary story—to a room where all these children are, and somebody goes to buy cannabis, you do not traffic children, you do not abuse children and you do not exploit them, but you are there and you know they are doing whatever they have to do and you buy whatever it is you buy, cannabis, and I wonder—

Q823 Chairman: This is a slightly new approach for us.

Myria Vassiliadou: No, it is about criminalising victims.

Q824 Chairman: We are trying to get this Bill through by May 2015.

Myria Vassiliadou: I have to highlight all the elements of the directive.

Chairman: But the Home Secretary has said we can have other Bills after this one, so thank you very much.

Myria Vassiliadou: Thank you very much for your time and the questions.