



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, Baroness Kennedy of Cradley, Lord McColl of Dulwich, Lord Warner, Michael Connarty, Fiona Mactaggart, Mrs Caroline Spelman and Sir Andrew Stunell

Questions [825-873]

Witnesses: **Professor Kevin Bales**, Wilberforce Institute for the Study of Slavery and Emancipation, University of Hull, and **Klara Skrivankova**, Trafficking Programme Co-ordinator, Anti-Slavery International, examined.

Q825 Chairman: Welcome, both of you. Would you both identify yourselves for the record?

Klara Skrivankova: I am Klara Skrivankova, Trafficking Programme Co-ordinator from Anti-Slavery International.

Professor Bales: I am Kevin Bales. I am Professor of Contemporary Slavery at the Wilberforce Institute for the Study of Slavery and Emancipation at the University of Hull. I am also the lead author on the global slavery index for the Walk Free Foundation; and a few other things.

Q826 Baroness Kennedy of Cradley: We have been told that the data about modern slavery in the UK is incomplete, patchy and misleading. Do you agree?

Professor Bales: I am not sure it is always misleading, but it is certainly patchy and incomplete. This is not a UK-only problem. We have a very interesting methodological challenge that has to do with data about human trafficking or contemporary forms of slavery. Shall I tell you a little bit about that and why we have a significant problem?

Most of the information that we have on any form of crime in terms of its actual prevalence is normally collected through a random sample survey, in something like what used to be called the British Crime Survey and is now called the Crime Survey for England and Wales. It is a very large sample. They ask across the entire population, "Did anything like this happen to you over the last six months or a year: burglary, theft or assault?" From that, you are able to compute what the actual prevalence of crime is within a certain margin of error and compare that to the recorded numbers of crime. There is a rule that applies to this. It is called the rule of dark figures. It means that the more serious a crime, the more likely it is to be reported. The dark figure is what is known as the amount of crime that does not come to our knowledge. The dark figure for murder is very small; almost every murder gets reported. Bicycle theft has a dark figure of something like 85%; no one bothers to report their bicycle being stolen.

That is all fine, and works for virtually all crimes when crime is conceptualised as an event. In other words, it occurs, it's over and it leaves someone or something that can be counted. This crime, along with only one or two others, which are more rare, is unique in that the victimisation begins and then does not end for very long periods of time. The victimisation of a person in trafficking or slavery can go on for months, years or even decades. In that entire period, that event never stops occurring and for that reason it becomes very difficult for that person to be withheld. They are incognito within the ability to count them. That means that we do not have tools which will operate to count victims of this crime at this time, except by finding those people who are found. But the people who are found are the outside of the dark figure.

Using the best statistical extrapolation techniques that we have been building within the global slavery index, we think that the dark figure for this crime is something like 90%. We are finding about one in 10, but I have to say that is an extrapolation; it is not a hard number. It is work that we do to the best of our ability, but we cannot guarantee that. We have calculated what we think the dark figures are for all European countries. They range from about 50% in Norway to well over 90% in some other countries. We think it is somewhere in that order.

I am sorry that is a long explanation, but it is also because we have a very interesting and significant methodological challenge with this crime,

which in a way mirrors what happens with sexual assault, in that there is a crime which, while very serious, is under-reported. I want to say one tiny thing more about that. People who have been caught up in slavery feel the same sort of psychological trauma and shame that people who have been through sexual assault often feel, and for that reason also they will choose not to go forward and report the crime as a victim.

Q827 Baroness Kennedy of Cradley: I will come back on some of that, but do you want to answer the question first, Klara?

Klara Skrivankova: I also agree that the data we have at the moment is incomplete and patchy. However, when we looked at the data we had three years ago and when we look at the data now—the National Crime Agency has just published new sets of data for the national referral mechanism—we have seen quite a significant improvement in the way the data is presented and also collected.

What we have found as Anti-Slavery, but also as part of the Anti-Trafficking Monitoring Group, is that one of the issues is the various datasets that are available. For example, if you look at the data that the Crown Prosecution Service collects on prosecutions for trafficking, they are startlingly different from the data from the Ministry of Justice on conviction of traffickers; yet they are all data on trafficking.

Similarly, we have a lot of data on victims—not enough, but quite a significant amount—but we lack data on traffickers. What is really important at the moment is to understand what data is there—there is a significant amount of data—and where the gaps are. The report by the all-party parliamentary group into data that was published quite recently makes it quite clear where some of the gaps are, but there are even more gaps, such as the data on traffickers, and who is able to tell how many victims were prevented from becoming exploited at the borders of the UK. While I agree that there are methodological issues at the moment, if there is a body that is enabled to do that we would be able to identify where the gaps are, and more data can be brought into the picture from the various data collection systems within the various Government agencies, in order to complete the picture.

Q828 Baroness Kennedy of Cradley: Is the UK currently able to comply with its international reporting obligations on modern slavery, or not now because of these gaps?

Klara Skrivankova: Reporting on modern day slavery is usually related to particular international treaties and obligations. The UK certainly reports, but if we look at some of the comments made by the monitoring bodies, such as the GRETA monitoring body that visited here, which monitors the implementation of the Council of Europe convention and which produced its report on the UK in September 2012, they point out very clearly that the UK should step up its efforts

in developing comprehensive and coherent systems that would produce data that would inform the monitoring of implementation of policies and also preparation of better policies on legislation. The UK is certainly able to report to a certain extent, but not fully. That was also pointed out by the United Nations through the universal periodic review process, which reviews the human rights records of countries periodically, and where the United States made a recommendation to the UK to establish national rapporteurs for that purpose within all its Administrations. Again, it points to the fact that improvements can be made.

Q829 Baroness Kennedy of Cradley: Professor Bales, coming back to your point, in the past you have said that you think there is too much data or, as you said, a lot of data about modern slavery, but we do not have the tools to count. What are the particular difficulties about the data, or what tools would we need to count it?

Professor Bales: I was passed that question earlier, and apparently I had said something about too much.

Baroness Kennedy of Cradley: You haven't?

Professor Bales: I have never said there was too much; I have always said there was too little. The answer is almost the same. What Klara has been talking about is disorganisation across a large number of types of data collection. One of the significant problems that we face in this country is about bringing those things together. I will give you a single example. At the moment, I am involved in a very small research project with people in the Home Office. There is a technique called multiple systems estimation. It is exactly the one that is used, for example, by the United Nations to determine how many people are being killed in Syria each week in the civil war in a very chaotic situation. It allows you to estimate things which are occurring in hidden ways. It is statistically arcane, but it will work.

To do that, we have to find certain lists and make comparisons between them to do this computation. We are having a devil of a time getting some people in the Home Office to speak with the NRM or to speak with an NGO and so forth. It is finding that way. In a sense, this leads on to the notion of what role the commissioner might have. If a commissioner could be the honest broker that could help to blend and bring together data sources and achieve certain uniformities, I think we would be going a lot further a lot faster.

Q830 Chairman: We will come back in a moment to the question about the commissioner. Before I bring in Alastair, because he has to get back to his diocese, I want to ask you this. You talked about the range of

data that we have being more accurate and less accurate. Why do you think that is? What is happening in countries where the data is more comprehensive than in countries where it is less comprehensive?

Professor Bales: I have to say that I do not think there are any countries where it is significantly more comprehensive, in the sense that there is some guiding light in the world about how we collect this information. However, earlier I mentioned random sample surveys and how you can measure prevalence using those in the same way that the crime surveys do. Those will work in developing countries, but not in highly developed countries. It is interesting that in a country like the UK, which has a very small number in true terms, or relative terms, of people who are victims of this crime compared with other countries, in terms of the proportion of the population, and they are more hidden because our law enforcement is more powerful and more vigilant, that kind of random sample survey won't work here. It has worked in some eastern European countries. At the moment one of the tasks of the global slavery index is that we are commissioning, through the Gallup organisation, six random sample surveys of six nations in the developing world, to see if we can break through this simple manipulation of existing cases and reach the actual prevalence in the population.

Q831 Chairman: I was wondering whether, in fact, those countries that treat their victims better correlated with having better data overall than countries that don't.

Professor Bales: The countries that treat their victims better will have better information, simply because they will be more likely to be identified and more likely to have that opportunity to be addressed.

Q832 The Lord Bishop of Derby: I have a couple of questions about victims. Clause 35 makes provisions in the draft Bill for a duty to notify the National Crime Agency about suspected victims of trafficking. Do you have views on that provision and that duty?

Klara Skrivankova: One of the things that I find curious about clause 35 is that it refers only to victims of trafficking rather than victims of all forms of modern slavery. That is one of the things that we noticed throughout the whole Bill; there isn't consistency in terms of which victims the Bill is trying to help.

The other issue is around the duty to notify about a victim and the purpose of that duty— whether it is a data collection exercise or an exercise to ensure that these victims are provided with access to assistance and protection. Equally, why should there be a duty to notify about victims rather than instances of crime? We know that there are a lot of cases where a crime is reported in a local police station, but there is

no central database where alleged trafficking cases are identified. We would like to see a system in which any public authority is duty-bound to identify victims and also to ensure that they are provided with access to a protection and assistance system, be it a professional referral mechanism or an equivalent to that, should they so wish.

Q833 Chairman: Does that stipulation apply to NGOs who are receiving public money?

Klara Skrivankova: I assume that that would be the case if you are receiving public money, or you are exercising a subcontracted duty of a public authority. What is important is that this duty would be a gateway and would ensure that if you are a victim you are given the opportunity for and access to assistance. Whether or not you decide to take it up is another matter. That has been a clear issue, and because there is not this obligation a lot of victims are just turned away from police stations. That is unacceptable, because if a victim is turned away then, of course, the perpetrator is not investigated.

Q834 The Lord Bishop of Derby: There should be something about the purpose and something about the definition of victim. Do you want to add anything to that, Kevin?

Professor Bales: I do not really want to, because this is exactly where I would stand as well. The important key here is to bring greater specificity to how the duty to report would be enacted.

Q835 The Lord Bishop of Derby: Moving on, how do you think we are doing in implementing the EU directive? Do you think the draft Bill fails when put against what the directive asks of us? How do you read that?

Klara Skrivankova: As with other pieces of European legislation, the directive is built on the three P pillars, which the Bill is not at the moment. In my opinion, which I believe is also reflected in the European legislation, they are indivisible. If you build legislation only on one pillar, the other two will be missing and therefore the legislation will be less successful. You will have noticed in the directive that the European Union made it very clear that it is significant to accompany prosecution with protection of victims. The important thing is that the European directive is a criminal law instrument, yet it includes victim protection. It specifically points to the necessity to ensure that victims have access to compensation. It also makes it very clear that victims of trafficking should not be prosecuted or punished for crimes they were compelled to commit as a consequence. These are all points that the draft Bill, at the moment, does not deal with or include.

I have personally been involved in some discussions before the directive was drafted. We believe we should have something that is a golden standard or minimum standard. My understanding is that the Commission invites Governments to adopt and implement the directive as the minimum standard, but there is nothing stopping the UK going even further.

Q836 The Lord Bishop of Derby: You are identifying a number of areas where there is a shortfall and too narrow a focus. How does that relate to the notion of having a commissioner?

Klara Skrivankova: Again, one of the recommendations of the directive is to have a national rapporteur or an equivalent mechanism. You will have seen in the submission that Anti-Slavery and others have made that we are very strongly recommending establishment of an office of anti-slavery commissioner that would be independent of the Government but that would have a number of powers, including the power to request and require public authorities to give information. That would monitor the whole spectrum of legislation and policies that are not only specifically dedicated to trafficking and modern slavery but also that might have an impact. As you know, there is a wide range of policies and legislation that have impact—for example, the changes that were recently made to legal aid. That has a huge impact on the ability of victims to assert their rights. Those would be some of the issues that the commissioner would be able to address.

Q837 The Lord Bishop of Derby: Alongside a commissioner, could the Bill be improved by being more specific about relating to public authorities and NGOs?

Klara Skrivankova: On the specific issue of the commissioner?

The Lord Bishop of Derby: And delivering some of these extra things that are not in the Bill.

Klara Skrivankova: Certainly, I think the commissioner should have the power to run inquiries and consult as wide a range of groups as possible, including the NGOs. In fact I understand you will be hearing from the Dutch national rapporteur. That is exactly what she does. I understand from colleagues in the Netherlands that every year they get a list of questions and areas to submit on, and they gladly do so because they know that it is in the best interests of the people they are assisting to provide the professionals with the information. The rapporteur will then be able to make evidence-based recommendations for the improvement of policies. It is not just about improvement of policies and knowing how successful the implementation is; it is also about focusing limited resources on areas where they are most needed and where the most difference can be made.

Q838 The Lord Bishop of Derby: It is of course a structure for bringing representatives of victims into the ecology more formally. That is what you are suggesting, isn't it?

Klara Skrivankova: Yes, it is.

Q839 The Lord Bishop of Derby: Do you want to add anything?

Professor Bales: I have just recently done a long piece of research for the European Parliament in which they asked for an assessment of their policies, both externally and internally. It is fair and important to say that in comparison to what is going on in many of the European countries we are not doing terribly. I just want to be clear about that. Many of those countries have not even begun to think about a rapporteur; they have not even been bringing forward the policies. However, the thing that in some ways is one step above this, but would certainly be part of the remit of a commissioner, is the fundamental fact that the resources that are brought to bear on this crime in all European countries—in fact in all developed countries—are very scant when compared to the severity and what we believe to be the prevalence of this crime. Given its severity as a crime, there are some very odd spaces. For example, and this is something we mentioned to the European Parliament, there are about 850,000 people in all of Europe who suffer from HIV. There is funding something north of €400 million per annum for those. We think in all of Europe there are about 1.1 million people who are caught up in trafficking and slavery crime. We are not able to even calculate what the expenditure is on that crime, but we know that it is nowhere approaching probably even the €100 million mark. We are simply not going to be able to address the crime efficiently until we bring those resources to bear. Of course, the role of a commissioner would be to help make those tough decisions about how best to deploy the resources as we increase them, but in the most efficient way.

Q840 Lord McColl of Dulwich: Would you suggest a national register of trafficked victims? If you take violence against women, we don't know how many there are, because they are taken to a different hospital every time. If it was a notifiable condition, you would know how many. Are you suggesting that this is a notifiable condition, and you would have a national register so you would know how many?

Professor Bales: I had not thought about that. It is not a bad idea. I have certainly been thinking more about finding a way to bring together the different points where information is held into, I assume, a kind of safe place, possibly under the remit of the commissioner, possibly not—but a place where there is a secure data-hold and you can

begin to both compare information from different agencies and hopefully make it more uniform in its collection.

Chairman: We could trace more vulnerable children that way, couldn't we, if there was one registration when they were being brought into different A and Es? That was Ian's point about victims.

Q841 Baroness Hanham: I want to refer you to the NRM data report, which I think was published a couple of days ago. It appears to show that there is a 47% increase in the number of people being trafficked. First of all, do you think that is demonstrating a big increase in trafficking, and that we are getting the right numbers? Secondly, bearing in mind that the NRM only records referrals, as I understand it, and not actual acceptances, how much reliability can one place on that? Following on from that, we also know that not all victims will allow themselves to be put forward to the NRM. That might reduce those numbers quite significantly. How much reliance can you place on those and, at some stage, how can you bring all these data figures together in a comprehensive way that gives you the full information I think you have been looking for?

Professor Bales: That is precisely what I was suggesting a moment ago. We need to find a way to bring all of this together. We do not honestly know if there is an increase in the amount of people who are victims of this crime, or much better recording and detection. I suspect it is the latter and not the former, but I would not be able to prove it either way. We certainly know that there is education going on among both law enforcement and also forward-facing operatives, whether in a casualty ward or wherever. They are beginning to be able to identify victims more readily, but this is still a very hidden crime and I think we just have to use these numbers very carefully, and admit that 1,700 is far too many and is probably the tip of an iceberg.

Klara Skrivankova: If I may add to that, I would also like to think that this is an increased number of referrals as a result of better awareness. Indeed, there are more agencies now that have the status of first responder, so there are more people who are able to refer to the national referral mechanism, but, as we know, some of the people who are captured within that number would not have been referred through the national referral mechanism. I know that the Human Trafficking Centre has been trying for a number of years to persuade NGOs and other Government agencies to provide them with information, but they do not have the power to require that, which is obviously a difficulty.

While we do not know what the reason for the increase is, we can only speculate that it is the missing analysis. We have the data, but we do not

have the qualitative analysis that would give us the information and the assessment. Again that is something that a commissioner would do. Ideally, in 10 years' time I would like to be able to produce something like the report that the Dutch national rapporteur produced, reflecting the first 10 years of the work that the office has done. You will see that there are comparative statistics. There is also qualitative analysis. On the basis of that, they are able to say in a much better way what the trends were and why the trends went in one direction or another. I think it should be the ambition of the UK to have something like that in 10 years' time and to be able to make a more informed analysis of whether the number is higher because there is a bigger problem, or because we have been better able to identify it.

Q842 Baroness Hanham: It would clearly be helpful, from everybody's point of view, if we had a pretty composite and accurate view of what the data was.

Professor Bales: That is crucial for law enforcement, because there are trends within this crime—very much so. Sometimes when we understand how to displace crime, say in the way we have learned how to recognise marijuana and cannabis factories by heat signatures, it is then pushed out of this country. I was recently meeting with Government officials in Denmark. They said, "Oh, we have just found our first cannabis factories with Vietnamese children enslaved in them." I said, "I am not surprised, because they know how to push them out of Great Britain and they may be moving here. You need to be learning about that as well." There is movement across, and that information will be crucial for pre-emptive law enforcement.

Q843 Sir Andrew Stunell: I want to turn to the anti-slavery commissioner. You mentioned the importance of independence, which I can certainly understand in relation to some of the functions, but how does that improve the capacity to get data? Is it not going to be more important to have a big department behind you to bully a few people?

Klara Skrivankova: First of all, the independence needs to be accompanied with the powers to request and a requirement to provide information on public authorities or those who are subcontracted to deliver services on behalf of Government. The experience from countries where there is an independent rapporteur or commissioner is very clear. The fact that it is independent from the Government gives people more confidence to provide data and information on people who might not want to engage with the Government but who have nevertheless been victims. This information is very important. I would argue it is even more important because we need to understand why people do not want to engage with Government services.

In fact, if you look at the review of the Children's Commissioner and some of the recommendations that were in the review, it went in the direction of recommending more independence. That would guarantee better operation and a better ability to inform on the deficiencies. The other issue of course is the ability to operate without interference, and to provide true recommendations and point out improvements within policy areas and in the work of Government Departments. I am afraid that a commissioner who is not able to operate without interference might not be able to say that.

Q844 Sir Andrew Stunell: Earlier on you talked about the powers which were needed to get data out of various organisations. We have had suggested to us a number which are pretty resistant, or maybe they do not have the capacity themselves to deal with it. There is the Prison Service, for instance, and other public agencies, as well as the NGOs. How far is it a question of giving the commissioner extra powers and how far is it a question of giving them extra capacity?

Klara Skrivankova: I think it is a bit of both. If you know you have to provide the information, you will find a way to include an extra column in the system of data that you are already collecting. That is something that other countries have been able to overcome. At the moment, if you look at some of the data that is collected even within the Home Office accounting rules, there is no column for modern slavery and there is no column for human trafficking. The data is somewhere in the system, but we are unable to identify it. This is something that can be addressed. Certainly capacity is and will be an issue, especially within civil society, but the reluctance to provide data is not necessarily always an issue of capacity but of trust, knowing that the data will serve to improve assistance and protection for victims, rather than pointing to particular individuals who might not have wished to engage with the Government for a particular reason.

Q845 Sir Andrew Stunell: In relation to public authorities, do you think the route for us is to have something in the Bill which is a catch-all that requires them to provide data, or do you see that as being something outside this Bill for separate action?

Klara Skrivankova: What I would like to see is power clearly defined in law for the commissioner to request this information. Then through non-legislative measures we can specify which particular Government Departments should be providing this information. I can imagine that not all Government Departments would be relevant, but significant Departments will have the information that should be provided to the commissioner.

Q846 Sir Andrew Stunell: What about first responders?

Klara Skrivankova: With first responders, if you are operating a Government-funded contract the expectation would be that you are providing the information. That is already the case anyway. Those who are not necessarily duty-bound by the Government would fall under the category of engagement with other agencies. Again, examples from elsewhere show that other agencies are more than willing and very happy to provide the information and assist the commissioner in exercising their duties.

Q847 Sir Andrew Stunell: If we are looking at data, which we are here, we know that one of the problems is that some of the NGOs who are first responders at the moment are reluctant—not to say refusing—to pass information to the NRM. Do you feel that there is something about the anti-slavery commissioner which means they would do it to that person but not do it to the NRM?

Klara Skrivankova: My understanding is that if you consent to being referred into the NRM your data is passed on by the service provider, so the service provider does not decide on behalf of a trafficked person. The consent in cases comes from the trafficked person. However, even in cases where people do not want to be referred, a number of NGOs provide general information, so it is not necessarily information that would lead to identification of particular people. They are able to say “Out of, say, 80 people this year only 30 have decided to engage and 50 of them were victims as well. They came from these parts of the world but they do not wish to engage.” Again, that is data that one can work with.

Professor Bales: I believe a commissioner could, in a sense, be a location of safety for the lodging of data. It could well be a situation in which NGOs, who were otherwise reluctant, could place information about an individual into a system, which itself becomes a process that could lead to other outcomes for that individual, as opposed to simple information that is very important to be held, understood and analysed having a potential impact on that individual.

The point is that you were saying, “Give capacity to the people holding that data.” I would suggest that the capacity that needs building would be that of the data collection centralised unit within the office of a commissioner. As a person who spends a lot of time collecting criminological data, I would not want to have everyone making their own decisions, even with guidance that I have sent them, about how best to put the information together to come into a centralised system. I would want to send my own researcher, who understands that this NGO and that NGO are similar but different in certain ways, and with this Government office and so forth. I would put some of the capacity building

certainly to those NGOs or those other providers to help them to achieve good data collection, because it is often very difficult when they are dealing with emergencies to focus on the data collection side. I would certainly build the capacity within a centralised data repository, so that that uniformity could be encouraged and taught, and not just required.

Q848 Sir Andrew Stunell: That is really helpful. Just looking at the powers, should we give the commissioner the power to require from first responders—NGOs, for instance? What proportion of carrot and of stick do you think we need?

Professor Bales: I am all about carrots. In this particular situation, I personally don't see the requirement as a stick. I do not know if Klara and I necessarily agree on this. To my mind, this is like telling teachers, "If you see a child who seems to be in a situation of potential child abuse, you are required to report it." We are talking about a very serious crime, which has very serious implications for the victims, and I feel that duty to report should go across as many possible points at which that report might be made.

Q849 Baroness Doocey: Would you propose any other additions or amendments to the draft Bill in order to improve data collection so that the data we got was more meaningful?

Professor Bales: Certainly, for the things we have just been describing, I would be happy to work that through, think it over and work with you to say, "How might we best build a data collection mechanism within the office of the commissioner?" It might be useful to specify that. On the other hand, I do understand that when you make legislation sometimes you want it to be sufficiently vague so that things can be dealt with as it develops. I leave that to experts.

Q850 Chairman: Kevin, before you leave that, part of our report is going to deal with the structure of the Bill as the Government have defined it, and how we might like that changed. But there is going to be a second part of the report that I think the Committee will want to make, which is about policy and also suggestions like this. It would be immensely helpful to us if we had your first thoughts on that, not because we want to codify it, but because we want to give people who have to pick this up and run with it some clear ideas in which direction they might run.

Professor Bales: Certainly; I am happy to do that.

Q851 Baroness Doocey: My concern was that I have asked huge numbers of questions of the Government about data. Most of the answers are that the data does not exist. It is not collected. It is how we can

make sure that the data is collected in the best mechanism for doing that, to ensure that when we look at data, the data that we are looking at is relevant and tells the full story rather than just part of it. Anything you could do to help that would be great.

Professor Bales: Certainly.

Q852 Baroness Butler-Sloss: May I ask an NRM question before I come to mine?

Chairman: You may.

Baroness Butler-Sloss: I am very interested in the fact that the Government collect and deal with referral numbers rather than the acceptance of victim numbers. What do you think is the value of the referral if a considerable number of them are not accepted?

Klara Skrivankova: That is a very good question, and it is a question that we are concerned about as well. It is important to refer somebody if there are signs of trafficking. The fact that they might not have been a victim of trafficking but of another crime can, of course, happen. The important information that we are getting from the number of referrals, and the number of those that are then actually being accepted conclusively as victims of trafficking, tells a very important story. There is a stark contrast. You will be aware of some of the work that the Anti-Trafficking Monitoring Group did on that, and especially the stark contrast in the quality of decision making in relation to victims from the European Union and the UK and those from outside. I think that is very problematic. In fact, that is exactly where the analysis is missing, and that is exactly the analysis that a commissioner would be able to do as to why there is such a discrepancy.

Q853 Baroness Butler-Sloss: The discrepancy is what matters here, isn't it?

Klara Skrivankova: Yes.

Q854 Baroness Butler-Sloss: I just wanted to get that on the record. Coming now to some definitions, there are two separate points I wanted to ask. First of all, do you think that the terms of the draft Bill are sufficiently clear? We have had a lot of criticism, particularly from a group of lawyers, on the wording of the Bill. If one goes particularly to clause 3 and the meaning of exploitation—leave out sub-clause (6) because everybody agrees that the word “young” is an inappropriate word to use there—are either of you supportive of the clause 3 definition, or not supportive?

Professor Bales: I have to say that I am. I am also supportive of the minimalist definition which this Bill holds. It is very interesting that, if you look back across definitions of slavery in legislation and treaties going back a very long period of time, what you see is that it was only in the last 50 years that it was deemed necessary to actually define slavery. You have lots of laws on the books and lots of treaties signed where they simply use the word “slavery” because everyone understood what it was. Some time around the end of the cold war people became very concerned about human trafficking in particular, but also decided that this was not slavery; it was something else called trafficking. The fundamentals were that this could not be slavery because that was historic and this was the present. Where I am going with this is that we have an explosion of different definitions, each one trying to parse out precisely what this thing called slavery is.

Q855 Baroness Butler-Sloss: Could I interrupt you?

Professor Bales: Certainly.

Baroness Butler-Sloss: Leading on from what you are saying, one of the proposals put to us is to have a general title over an umbrella word “exploitation.” Then you would define within exploitation anything from trafficking, the movement of people or people who are in fact under the control of someone else by domestic servitude or forced labour. Begging is another example and so on. How would you see that?

Professor Bales: I do not think that would be as helpful as lodging it on the word “slavery.” If you then wanted to build a legal foundation under that word, you would follow the work of the large group of international legal scholars that recently authored the Bellagio-Harvard Guidelines that say, if you build this upon the 1926—now UN—definition of what counts as slavery, that works in virtually all systems of law.

Q856 Baroness Butler-Sloss: We have a problem across Europe, though, because “human trafficking” is the phrase they use and not “slavery.” Slavery is used in the United States, but human trafficking is used in Europe, so we have to have that in somewhere.

Professor Bales: You can do that. Human trafficking is simply a process by which a person is taken into a situation of enslavement. Unfortunately, that is not part of many of the current legal definitions in the UN or Europe which came out of the late 1990s and early 2000s, in which they flipped it around and made this process called human trafficking a subset of enslavement. In fact, conceptually and logically it is the other way around. I would not fall into that trap. I would say that if we are going to talk about something—this one particular process called human trafficking—we can do so, but it is only one of potentially

hundreds of processes by which a person is taken into a situation of enslavement.

Q857 Baroness Butler-Sloss: The final point I want to ask you about concerns the three Ps in the context of the drafting of this Bill. I entirely accept what Klara says, which is that the three Ps go together. You have to have prevention, prosecution and protection. Prosecution is in the Bill. I do not think we need to ask you about protection, because we have had a lot of evidence as to how we might try and put that in. How do you put prevention into legislation, as opposed to using it by way of policy? You are criticising, Klara, that you do not have the three Ps in the Bill, but I would like to know how you get prevention in.

Klara Skrivankova: If I may, I will quickly comment on the previous question around definitions. I am also of the belief that we need an umbrella, overarching catch-all definition or description. Whether it be exploitation or something else is another matter. You can have an offence that is commissionable in a number of ways, which is exactly what is happening on the ground, but also an offence that refers back to article 4. Indeed, they do this in the US as well; they refer it back to the 13th amendment. I think that would also deal with some of the issues we might have with the European legislation. Again, article 4 is part of the European legislative framework, so referring back to that might be a way to do it.

Q858 Baroness Butler-Sloss: It is in the Bill, of course.

Klara Skrivankova: Yes, it is. The way that exploitation is actually phrased in clause 3 is very limiting, in my opinion. What it misses at the moment is the inherent issue in the majority of cases, which is abuse of a position of vulnerability. In the Bill at the moment, a vulnerable person refers mainly to somebody who has a disability, is of a young age or is a family member. It misses issues like status or a situation of need; somebody can be recruited on the street as a potential victim because they are homeless. These are the issues, and we know that this is exactly an issue for the UK. That is a problem which at the moment is not dealt with in the Bill.

Going to prevention, there is only so much that can be done in a Bill. However, a particular area that could be addressed through the Bill is the prevention of forced labour in the supply chain by making it very clear that there should be mandatory disclosures for companies.

Q859 Baroness Butler-Sloss: But that goes into the supply chain. That is how you deal with prevention.

Klara Skrivankova: Indeed; that is one example. As you will know, one of the Government priorities in this area has been to work

upstream. That talks about prevention in the country of origin. There is also a commitment or proclamation from the Government that this is a process that should lead the way in combating slavery globally. At the moment, the International Labour Organisation is in the process of standard setting. That looks at amending or introducing a protocol to convention 29 on forced labour. That is from the 1930s. The standard-setting process looks at improving the elimination of forced labour globally by including prevention, protection and access to compensation in a binding protocol. Unfortunately, at the moment the Government are opposed to introducing a binding protocol to the ILO convention. I hope that perhaps the Committee would recommend to Government that they revise their position. By recommending a binding protocol, it would set a higher standard globally, including in countries that are countries of origin for the UK. Obviously that would clearly also go towards prevention. As you say, there is very little, or a limited amount, that we can do in the Bill nationally, but demanding that globally the standards are raised goes a long way towards ensuring prevention.

Q860 Chairman: Michael will bring us on to the importance of supply chains in a moment. When we spoke to the Home Secretary—and she said this clearly in the House—she sees the greater effectiveness of prosecutions, but it is also about prevention. What I am not quite clear about is, if we had the Home Secretary here now, what would you say to her that we need, more than the prosecution policy she hopes to have, to initiate a much more effective prevention policy? What are the headings, Klara?

Klara Skrivankova: One of the points I would make is that we should ensure that protection is enshrined in law, and that protection does not end after a short period of time. Prevention is not just preventing crime from happening, but preventing people from being victimised. I am told by a number of service providers that they are seeing more and more victims who are repeatedly trafficked.

Q861 Chairman: That would be to develop policies to prevent further subjection to slavery.

Klara Skrivankova: Certainly but also—

Q862 Chairman: Would you accept the main trend of her argument, which is that we are never going to prevent unless we are massively effective in prosecution?

Klara Skrivankova: That is a correct argument on only one side of the coin. I am sure you have heard a number of people talking about the

importance of the protection of victims for their ability to participate in the prosecution of traffickers.

Q863 Chairman: We are very clear that we want to do something on protection, Klara. It is on the prevention side that we want your and Kevin's help.

Klara Skrivankova: Prevention happens on three different levels. One of the key elements of prevention is how it links back to protection and how it prevents the problem from reoccurring. That is very much linked to assistance to victims, to ensure that they are not re-victimised. The other issue, as I have already mentioned, is prevention of forced labour throughout supply chains, and also creating criminal offences of using victims of slavery in supply chains, which again creates the preventative deterrent effect. There are a number of particular elements of that. A further preventative measure is compensation. Victims who are properly compensated are less likely to be at risk of re-trafficking, which again is something that is not happening very often at the moment in the UK.

Chairman: That is very helpful. Joan, I think this helps with your questions on orders. The orders could be used as effectively as possible to prevent people coming in who we know might be trading in slaves.

Q864 Baroness Hanham: We were talking about the risk order in particular, not the post-prosecution or conviction orders. We could not see whether risk orders were actually going to have any value, but the police we were talking to on Tuesday suggested that you could use a risk order to prevent somebody external to this country from coming in and doing something like trafficking. Do you think that would work? Could that be part of the prevention?

Klara Skrivankova: I have not quite thought about that yet. I can imagine, for example, within the European Union that it might well be possible to suggest something like that. If you have committed the crime of trafficking in one country, it is well known that, if you escape prosecution in one country or you have already been prosecuted, you are often engaging in the same in another country. That might be something to consider, but I must admit I have not looked at that yet.

Professor Bales: There are two sides of Klara's coin. Indeed it is always good to have as many prosecutions of criminals as possible, with the idea that that will push them away and make it harder and harder for them to do what they want to do as criminals. However, the other side of prevention is all about education and knowledge. We have a significant number of people who are desperate and who are seeking opportunity. They are operating in a situation in which their knowledge

of the pathways to opportunity is very limited and they are also being told lies, which is what brings them into the situation of trafficking, and ultimately to enslavement.

One of the things that is worrisome from my perspective about prevention work is that it is very rarely monitored or evaluated. Very few prevention programmes have pre and post-testing, for example. I know that some have been very effective in the past. The IOM has done some where they have pre and post-tested and so forth. They have been able to monitor the way understanding and market knowledge about labour markets abroad have been altered in origin countries. That is great. We need to specify somewhere, possibly not in the Bill, if we are going to move to prevention. Let us make sure we do it in a careful way as opposed to what I worry about, which is the millions and millions of pounds that have been spent in the last 10 years putting up posters which have never been tested to see if they actually have any impact whatsoever.

Q865 Chairman: On the business about people wishing to move, yesterday I heard Professor Coleman talk about real cost. Huge numbers of people want better opportunities in western countries. A drag on that—prevention of that—is actually the cost. For me, it was the first time that I began to see how families could sell someone into bondage to get them over the hurdle of the costs of coming.

Professor Bales: Precisely, yes.

Q866 Michael Connarty: We had some evidence earlier from the EU person responsible for drafting the Bill about legal personalities. I cannot find it specifically in the directive but she said that there was extra-territoriality. She went into quite an interesting debate with herself about whether, if someone buys a product knowing that product was made by someone who has been, in some other jurisdiction, controlled, exploited or trafficked, does that guilt then transfer and what legal entity is it? She asked whether it was a company or an individual. My concern, as Klara knows, is how you deal with this outside the jurisdiction of one country. I have always used the phrase, “If Wilberforce had just abolished the use of slaves in the UK, he would not have abolished slavery.” Similarly, if we put together a slavery Bill that just deals with what happens in our own jurisdiction, it does not really change the world picture as we know it.

I know you are involved with Walk Free. We spoke to Andrew Forrest this morning by video link. He was very enthusiastic. He talked about the slavery index; he was very supportive of its power. Someone remarked to me that the slavery index in the UK would not necessarily be an indication of the slavery that UK companies were involved in if you looked at the

countries where it was happening. Would that liability follow the company that ordered the product, or the company that made the product? It is interesting.

Do you think there is a role for legislation on this matter—transparency in supply chains—either in this Bill or in some other way? Are you attracted to the California Bill or, even better, the Bill that I tried to put through Parliament, which was a lot tougher? Where do you stand on that? The great difficulty for us, to be honest, is how we put something in this Bill that makes it indicate where we stand on this. It cannot replicate the whole of the California Bill or my Bill. How do we insert this in it?

Professor Bales: It is a thorny one. I am not even going to touch on the international legal implications of which laws you might use to create a legal liability in a foreign country. We know how to do that with child sexual abuse and so forth. There is a model; there is a model in the Alien Tort Claims Act in the United States, but it is highly debated in the United States and may not even stand up to a Supreme Court ruling that is coming up. We don't quite know how to exceed the boundaries of nation states very well in terms of human rights law. I wish we could; I am with you on that.

In terms of legislation that is something like a Transparency Bill, I have to say that I have a real preference for the California law. I sketched out the original draft of that law. It is sometimes seen as a weaker sort of law—I think you felt it was too—because it had no requirement for intervention or direct action, only for reporting. However, the reason why I feel positive about that is that, having worked in business, having had my own business and having worked internationally in business, I know that if you try to put heavier requirements into a law that affects companies it is very difficult for them to bring their support to it, and without the support of business the law would not be passed. This was as a simple reporting mechanism without penalty, except for the potential public penalty that people would reject a company that said they were doing nothing to see what was happening with slavery in their supply chain. That law could pass, and businesses could come behind it and begin to work with it, and be able to do so without the fear that they would step into some sort of landmine area of potential risk that they had no comprehension of before it started. I think it is a step—never to be the last step—but I think it is one of the few first steps that is possible, for that reason.

It has had impact here. The California law has actually had an impact in this country. I was amazed when, in the follow-up to it, there was a telephone call from a Somerset dairy farmer, who said, "I have just been sent a letter from the bistro that I sell my bespoke cheeses to in California. They are asking what about my dairy operation in Somerset might be touched by slavery." He was clean, but the point was that suddenly you have rural farm business people in this country thinking

carefully about things they might be buying. It is all because the threat of a lawsuit, penalty and so forth is there. It is allowing the context in which reporting and opening up the issue occurs without a sense of risk.

Klara Skrivankova: You will be familiar with the position of Anti-Slavery on that. We would certainly support compulsory, mandatory reporting, but at the same time this is not a panacea. It would be a good start. Talking to businesses about that, while businesses generally do not want more regulation, they do want certainty about what the rules and the risks are. They also want a level playing field. By making it mandatory, businesses can benefit by saying, "Well, this is what we are doing and this is what we have done," without having to admit that they have a problem. I know that some businesses are already doing quite a lot and Anti-Slavery have been working with a number of them, but they are often not very willing to publicise their good practice because then they might be pointed at as those who have a problem. There is a preventative as well as punitive element in that. It is a recommendation we made before.

There is a precedent in the way the UK dealt with due diligence in the area of corruption, in the Bribery Act. Perhaps that is an example to take. I know it is not possible to include the comprehensiveness of the Transparency in Supply Chain Bill as you have recommended it in this Bill, but perhaps it would be something to look at specifically. There is also another dimension, which is the excellent work that the Gangmasters Licensing Authority is doing. It was mentioned by the Secretary General of the Council of Europe last week in Vienna. One of the two good examples that the Secretary General gave was the UK's Gangmasters Licensing Authority, which is very significant. A number of us have presented evidence that extension of the Gangmasters Licensing Authority in industries that have the same problems as the industries that are currently regulated would improve them. It would not necessarily place a burden on good businesses, because it would again create a level playing field for those who are abiding by the law and would push away those who are operating outside the law.

The other recommendation in the suggestions we made for consideration is to look at creating a criminal offence of using slaves in the supply chain. Of course, there are not many businesses that would necessarily do it knowingly, but there are businesses that choose to look away if some nasty stuff comes up in an audit. They would no longer be able to do that. There was an interesting case in Belgium a few years ago, where a company at the top of the chain was prosecuted for trafficking committed by a company one chain below. It was found by the judge that they must have known because it was so obvious, so there is a precedent. It is important to say very clearly that you should not be able to say you did not know, because you should know what is happening throughout your supply chain.

Q867 Michael Connarty: I agree entirely. Lots of people have said that it should be made mandatory, because good companies who do it voluntarily do not want to say they are doing it voluntarily in case people say, "Well, there must have been something wrong." When it is mandatory, everybody is quite happy to show what they are doing. How do you put it in a Bill like this? What are the simplest components that you can think of which you can put in the Bill that would make it clear that we are looking at slavery more than just in the UK?

Chairman: Michael, Elizabeth would like to come in there.

Q868 Baroness Butler-Sloss: Kevin, having written the Californian one—and the Ambassador-at-Large from the United States thought that we could do a bit better than California in his evidence to us yesterday—I wondered whether you might give us some written advice as to how we might put this.

Professor Bales: I would be happy to.

Q869 Baroness Butler-Sloss: It would be extremely helpful because we are floundering a little bit, or at least I am, as to how we might be able to express it in statute. We understand how to discuss it, but actually to put it into this Bill is more difficult. It is not there at the moment, and that is the point.

Professor Bales: Of course, I am no lawyer.

Q870 Baroness Butler-Sloss: My goodness me, for someone who produced the California Bill—

Professor Bales: I sketched out the concepts.

Q871 Baroness Butler-Sloss: But it was a very good, strong forward movement.

Professor Bales: Was that Luis CdeBaca you spoke with yesterday?

Chairman: Yes.

Professor Bales: I will touch base with him.

Q872 Michael Connarty: I really do believe that we can possibly get one clause, if we are lucky, into this Bill. What would you put in that simple clause to give us a ratchet with which to come back and build on in the future?

Mrs Spelman: I want to share this with you. We are trying to explore what the measure is that, in practice, would drive this transparency and

the practice, not just transparency but actual action to provide better protection and prevention. This morning, we explored it with Andrew Forrest who was wonderfully blunt. He said that business will not do it on a voluntary basis if it is going to cost money, until it is made to do it, because they are in business to make money. That is so blindingly obvious that it probably did not need stating. We asked him what he would feel about making one of the non-executive directors in a company of a certain size responsible for ensuring there was no slavery in the supply chain. He said, as the chairman of a company, "You must not let the chairman get out of the obligation." Chairman and point person on the board might, he thought, be a practical way of achieving that.

I have another thought to share with you. I was in Bangladesh last week. I asked the Bangladeshi Government representatives how we could help them make sure that there is not another Rana Plaza. They reflected on it and there were two things they said which were interesting. One was "to require your companies that are getting products made in our factories to satisfy themselves that those factories have been inspected." From the Bangladeshi Government point of view, they have announced 250,000 inspectors as their response to the tragedy, but it is not going to happen unless the companies who trade in their country start asking, "Where are these inspectors?" That was quite interesting.

The other thing they told me was that the Japanese Government have responded like this: they now require their clothes importers from Bangladesh to satisfy themselves that the factories they are importing from have sprinkler systems, and have been prepared to pay for those sprinkler systems in those factories. What is interesting about this is how we get to something practical in a clause that will drive change. That is the exam question.

Chairman: Kevin, when you are drafting that clause for us you can have sub-clauses. Michael is right about the politics of this Bill. If we come up with a whole stream and a full page it just won't happen. If we can start the process within a clause, it is going to be so much harder for the Government to try and take it out of the Bill, should the Bill be amended, say in the Lords putting that clause in.

Professor Bales: I still tend to believe in a clause that requires mandatory reporting of what in fact a business is doing to address this issue within its supply chain. I would stop there. I appreciate of course that there have to be many steps beyond that, but I worry if you begin to try to specify who it is within a board of directors or the hierarchy of a company; I do not see how one could do that legally, whereas I know that, if you open that door to a place where businesses feel safe to begin to talk openly and to look carefully at their supply chains, if they

will, but also running the risk of being slapped down by the public if they won't, that creates a space where the risk is low enough that they are able to take those steps. I think you go beyond that in time, but this is a very large oil tanker and it takes a long time to turn.

Q873 Chairman: Kevin and Klara, thank you so much for your evidence; you are going to give us some future notes on these things. We are grateful to you.

Professor Bales: You're very welcome.