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Joint Committee on Human Rights

Oral evidence: [Human Rights and Business](#), HC 443

Wednesday 8 February 2017

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Members present: Ms Harriet Harman (Chair); Fiona Bruce; Ms Karen Buck; Baroness Hamwee; Baroness Lawrence of Clarendon; Jeremy Lefroy; Mark Pritchard; Amanda Solloway; Lord Trimble; Lord Woolf.

HC 443

Questions 95 – 114

Witnesses

I: Margot James MP, Parliamentary Under-Secretary of State, Department for Business, Energy and Industrial Strategy; Chris Carr, Deputy Director Corporate Frameworks & Accountability, Department of Business, Energy and Industrial Strategy; Sarah Newton MP, Parliamentary Under-Secretary of State, Home Office.

II: Rt Hon Baroness Anelay of St Johns DBE, Minister for the Commonwealth and the UN, Foreign and Commonwealth Office; Rob Fenn, Head of Human Rights and Democracy Department, Foreign and Commonwealth Office; Rt Hon Sir Oliver Heald QC MP, Minister of State for Courts and Justice, Ministry of Justice; Rob Linham OBE, Acting Deputy Director, Human Rights and Devolution Policy, Ministry of Justice.

Examination of witnesses

Margot James MP, Sarah Newton MP and Chris Carr.

Q95 **Chair:** Thanks very much indeed. Chris, would you like to introduce yourself?

Chris Carr: My name is Chris Carr. I am the deputy director for corporate frameworks and accountability in the Department for Business, Energy and Industrial Strategy.

Chair: Which we call BE-IS.



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Chris Carr: It is pronounced Bayes, as in theorem.

Chair: Oh my Lord. That makes it much easier to say. Thanks very much indeed, Chris, for coming along, and thanks to our two Ministers. I will start by asking Margot a question. Obviously, at the forefront of everybody's mind is the question of getting trade deals all around the world and making sure that UK business is able to continue to do its work all around the world. We already have businesses here that work in many sectors in all parts of the world.

How important to you and your department is human rights compliance and the behaviour and standards of UK businesses in respect of human rights? I am talking about what comes across your desk on a daily basis and what causes everybody to frown and worry. How genuine is the focus on human rights?

Margot James MP: There is a focus on human rights. In terms of what comes across my desk, it is part and parcel of quite a wide but related agenda to improve corporate governance. Of course, as the Minister for Corporate Responsibility, corporate responsibility is a big chunk of my work. Because the human rights aspect is a shared responsibility with the Foreign Office, I would not say that it is a huge part of my workload but, as Minister for Corporate Responsibility, I am very conscious of it, and it dovetails with certain other aspects of my work. I mention corporate governance in particular, but there is quite a bit of duplication. All listed companies now have to produce a statement on their human rights policy and how they monitor it. That is now embedded, but we want to move forward with it and I see it as very important.

Chair: Are you the Minister for the National Contact Point?

Margot James MP: Not directly, no. That sits in the Department for International Trade. I am aware of the important work of the National Contact Point but I do not have responsibility for it. As I said, that sits in the Department for International Trade.

Q96 **Chair:** Thank you. Sarah, you obviously have responsibility for a different range of things but how important is it that business complies with human rights obligations both here and abroad?

Sarah Newton MP: It is really important. I suppose that in the context of what we are discussing today, the area that really jumps out is all the work we have been doing on the labour market and exploitation from trafficking through to slavery. We have ground-breaking legislation in the UK. I know that Baroness Hamwee and other people on this Committee have been instrumental over the last few years in bringing that Act back into force.

A key part of that is transparency in the supply chains. A measure was brought in to ensure that all companies in the UK with a turnover of more than £30 million produce an annual statement. We are coming up to the first year when they have to do that—in March—so we will be looking



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very much at what comes out of that and at what more we can do to encourage businesses in that regard.

Looking at the broader range of exploitation, as you will be aware, we have recently set up a Director of Labour Market Enforcement, and Professor David Metcalf has just started in that role. In the Immigration Act last year, we gave really important new powers to agencies such as the Gangmasters and Labour Abuse Authority. It has police-type investigative powers and there are much stronger penalties.

Right across the spectrum, from enforcement to the minimum wage, trafficking and other sorts of exploitation right the way through to slavery, we now have a much stronger legislative framework and enforcement bodies to do this work.

Chair: Thanks very much. Doreen, would you like to kick us off? Sorry, Fiona.

Q97 **Fiona Bruce:** We are conscious that Margot has to leave at a certain point and we have reordered all the questions.

Margot James MP: Yes, and I apologise to you, Chair, for the unfortunate conflict in the timetabling.

Fiona Bruce: Not at all, and thank you for coming. I want to ask you a little more about the UK National Action Plan. It was first issued in 2013 and updated in 2016. Previous witnesses to this Committee have said that they consider there has been a lack of progress in the intervening period regarding engagement by businesses with human rights. They have been disappointed with the revised plan in that it has a lack of new commitments and is a bit too modest in scope. They have criticised the failure to undertake a baseline study so that progress can be evaluated. Can you comment on that and let us know whether you intend to review the plan again and, perhaps in the light of some of these criticisms, to look at how clearer objectives could be incorporated?

Margot James MP: We have no plans at the moment to update or change the plan as it stands. As you said in your question, we updated the plan only last year. Obviously I am mindful of your Committee's inquiry. I will look at the report with great interest and we will respond to it. If there are things in the plan that we feel need to be changed, we will look at them.

In response to the criticism that no benchmark was set at the beginning, as you know, the UK was the first country to produce a plan based on the guiding principles on human rights in business. So we had no template to follow, and we have at least updated it since the original. It was informed by quite a wide stakeholder engagement exercise. So, although no formal baseline of measurement was in place, there was a lot of input there to give us a base from which to plan for the future. I think that the guidance from the UN on advocating a baseline measurement came out after we published our plan and incorporated some changes in law. We have also



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helped other countries and some of their plans reflect our work as well, which is pretty positive.

Fiona Bruce: Thank you. On the question of your engagement on this issue, UNICEF told us that the most senior civil servant in BEIS working on the updated plan was redeployed. If you were aware of it, can you tell us why that was? And what other staff commitment have you put into this?

Margot James MP: We have quite a group of people—I do not know how many—within the corporate responsibility function of BEIS. I was aware that someone was redeployed, but that was considerably before my time in the department, so I do not know the details and the whys and wherefores of that, but we have good-quality people working on corporate responsibility, some of whom have the human rights brief within their remit.

Fiona Bruce: It might be helpful if you could write to us on this. I realise that it is a detailed point relating to administration.

Margot James MP: I would be very happy to.

Q98 **Fiona Bruce:** Thank you. We are also interested in what training your department has put into this agenda. Almost in your very first answer you referred to the UK National Contact Point falling outside your remit, and that is something that I want to ask you about as well. Which department should have the lead responsibility in this whole area? Should there perhaps be a separate interdepartmental body or an independent commission that could have responsibility for ensuring that there is a cohesive governmental approach to this issue?

Margot James MP: There is an argument for having a single body. When you have a single body, it is always easier to have proper accountability. On this issue, the human rights perspective and the guiding principles cover all listed companies, many of which have activities across the globe. For that reason, it is important that the Foreign Office takes a lead in conjunction with us as the business department. There are quite a number of functions within government that have to straddle more than one department. That is a fact of life, but I do not think that it necessarily gets in the way of action.

As for the National Contact Point, I recall it from my experience of trade, which lasted about three years. I have some details on it, although I think you have a trade Minister coming to see you shortly and you can ask them. However, it is quite impressive that the UK National Contact Point has dealt with 20% of all the complaints across the world. Forty-nine countries have an equivalent of a national contact point, and the UK has dealt with 20% of all those complaints, so I think it is a force to be reckoned with.

Q99 **Fiona Bruce:** Thank you. That is very interesting. We will just see whether you can answer any of the questions that we wanted to put to



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you on the UK National Contact Point. I will ask you a question on that in a moment. As I understand it from our clerks, your department agreed with the Department for International Trade, which you say is now responsible for the NCP, that you would come briefed to answer any questions on it. Were you aware of that?

Margot James MP: I have a brief on the National Contact Point, so let us have a go. I shall be quite happy to do so. I just thought that you were seeing a trade Minister later. If I am wrong about that, I am sorry.

Chair: We are seeing the Foreign Office and Justice later.

Margot James MP: I am sorry. I misunderstood. I know a bit about it and I have a brief on it, so please carry on.

Fiona Bruce: Excellent. We as a Committee visited the National Contact Point. We were quite surprised at how few personnel it had, at how limited its resources were—in fact, underresourced for the task it is mandated with—and at the limit on effective remedies for victims. Its public profile is very limited. I think a lot of people would be completely unaware of it. I confess that I was until I sat on this Committee. Also, it might lack independence. Have you put any thought into providing it with more resources and more enforcement powers, giving it the appropriate authority that it needs as a non-judicial mechanism so that victims can be appropriately protected and compensated?

Margot James MP: It is difficult when it sits in another department. I cannot really speak for that department. I can answer questions about the National Contact Point and I can relay your concerns, which I will indeed do, but I cannot say whether it will choose to put in more resources. I suppose that we could do so, as BEIS, with the overall responsibility. That is something that we could consider. I would be happy to look at the National Contact Point and talk to trade Ministers to see whether anything can be done to improve resourcing, if indeed they agree that extra resourcing is required.

On the question of remedy, it is true that it has no powers to sanction companies. It is a source of soft power and influence rather than something with a direct power to penalise, and I do not think it would be in our gift to give it that power at the moment.

Fiona Bruce: That is very interesting. You have touched on the essence of the concerns—whether this is to be something that simply fires warning shots or whether it should be able to exert punitive decisions. We wondered whether there ought to be an independent board with full scrutiny powers that could become part of the NCP. Is that something that you have thought about?

Margot James MP: No, to be honest, I have not thought about that. It is regarded as one of the most effective of the equivalent international/national contact points. As I mentioned, there are 49



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countries with such an operation, and it is regarded as one of the most active of all those units. I am sorry that it disappointed you on your visit.

Fiona Bruce: It did, to our surprise. I felt that the staff were struggling with the volume and the importance of the issues that it was trying to address.

A particular criticism that we had of the NCP is that international companies can often be criticised in statements by the NCP, yet subsequently they are given public sector contracts by the Government. An example given to the Committee is G4S, which tends to undermine the impact of the NCP's final decisions and statements. Do you think that there ought to be a more joined-up approach across government to address this?

Margot James MP: In answer to your question about public contracts, according to the briefing I have been given, there is a slight overlap here with the Modern Slavery Act—which my colleague here knows even more about, as she indicated earlier—to the extent that failure to comply with the Modern Slavery Act is a ground for exclusion from public sector contracts and procurements. The National Contact Point does not have the same power, but at least, when you look at trafficking and slavery in corporate supply chains, failure to comply with the Modern Slavery Act is a ground for not being eligible for public sector contracts. I hope you will find some comfort in that.

Fiona Bruce: I do. In fact, the work that has been done under the Modern Slavery Act in setting standards certainly for larger companies to adhere to has been very positive, and our Committee has heard how those companies have taken that very seriously. We were looking at other human rights abuses that occur either in the UK or overseas and at whether there could be guidelines to ensure that access to valuable public sector contracts is reviewed.

Margot James MP: I accept your point that the National Contact Point does not have the power to penalise companies, but if a company is found guilty of a human rights abuse under another law, our public contract regulations provide a basis for that company to be excluded from public sector contracts. Again, there is some comfort from that point of view, although it is not specific to the National Contact Point.

Fiona Bruce: It might be helpful if you could write to the Committee with more detail on that point. It would help to enlighten us. Could the Department for International Trade also be passed the questions that I have just asked you, bearing in mind that you said that ultimately it is in authority regarding the NCP? Perhaps it could write to us too so that we have the benefit of its responses to these questions.

Margot James MP: I shall certainly contact it with the questions that you have asked me to go back to it on. On the resourcing issue, I shall be very happy to write to the Committee when I have found out the answers



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from my colleagues in the Department for International Trade. I am sure that if you invited them to come to the Committee, and if you wanted to interrogate them further, they would be only too pleased to appear.

Chair: Thank you, Fiona, and thank you to the Ministers. Sally, would you like to delve a bit deeper into the Modern Slavery Act?

Q100 **Baroness Hamwee:** Thank you for the compliment, but we were only reacting. We have had a lot of very positive comments about the Modern Slavery Act, but it is “Oliver Twist” once more.

In two or three areas it is worth mentioning, although I am sure you are aware of this, that the companies that are complying are very keen that there should be extended compliance because of the desire for—an awful phrase—a level playing field, as well as being properly ethical and so on. Will you support the Private Member’s Bill that is in the Commons at the moment and, if not, will the Government find a way to pursue the issues—in particular, a repository of the statements? I am talking about making statements actually say something instead of responding, “We haven’t got a statement”. There is also the whole issue of pinning down public procurement in primary legislation.

Sarah Newton MP: Thank you very much for your question. Although the UK should be proud that we have this ground-breaking legislation, we realise that we are just scratching the surface. It is just the tip of the iceberg and we know that there is much more to do. Just like you and Oliver Twist, we also want more. You are raising the particular issues around transparency in the supply chains and the requirement to produce an annual statement and what more we can do there. If we go back to the legislation, it was very much designed for the private sector—I will come back to address your issues about public procurement. It was always designed for businesses. We have asked them to produce a statement every year that sets out very clearly what they are doing as an organisation to ensure that there is no slavery in their supply chains. The anniversary is March, and they have another six months to comply. I understand that there has been a good response.

I am pleased that you have received evidence that businesses are taking this seriously. They are doing that because consumers are very much aware of this issue; there is a lot of pressure on companies to show that there is not severe exploitation, trafficking and slavery. It is about their reputations, so they are keen to work with us on this. There are two organisations at the moment—two NGOs—where the statements are being deposited unseen. One is the Business and Human Rights Resource Centre. The Government were very clear during the passage of the Bill that we wanted NGOs to set up these repositories. We wanted independent organisations to set them up so that there is really good scrutiny. We are pleased to see that progress.

There have been calls in Private Members’ Bills. Some work is being done by Kevin Hyland, the independent commissioner, to look at what more we can do. We are actively looking at producing a list. People are asking us



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to produce a list of companies. That is not as straightforward as it would seem because these are UK-based companies that could be trading overseas and their annual turnovers will change each year, so to get a definitive list is harder than you might think, but we are actively working with HMRC to see how we can do that. I am hopeful that in a few months' time, when Kevin Hyland has finished his work, when your Select Committee inquiry is complete and others have given their feedback, we can make some more progress. On public procurement, as my colleague said, most companies that the Government are procuring from have those obligations as companies, but we do not want just to leave it there. In the Home Office, we have been working with our supply chain to see what more we can do to in procurement to be certain that there is no slavery in the supply chain. Once we have finished all that work, our intention is to share it with other government departments to show them what more they can do. It is not required by the legislation: this goes above and beyond the legislation, but it addresses some of the concerns that you and others have highlighted.

Baroness Hamwee: May I just row backwards and perhaps take this bit by bit? First, on procurement, we have the Public Contracts Regulations. When some of us made ourselves look at those, we found that they were a very thick pile. As you say, this does not go across government. When you were talking about doing work, is there a timetable?

Sarah Newton MP: We have been working on this for some time and it is really important to get it right. I am very conscious that, although government departments tend to work with large organisations—a couple have been mentioned today—there is another government strategy, which is to encourage small and medium-sized businesses to benefit from government contracts. We want to make sure that, whatever we do, there is something that they can relate to. We have engaged with companies of all different sizes to get this right. As I say, we are hoping to have something to talk about publicly quite soon.

Baroness Hamwee: Will this go beyond central government—to local authorities, for instance?

Sarah Newton MP: It is important that we get our own house in order first. Nobody said that doing any of this would be easy and we are determined to get it right. It is important that we take the time to get this right ourselves. But that would very much be the hope, over time.

Baroness Hamwee: Will what you expect contracting parties to demonstrate go down the chain?

Sarah Newton MP: Yes. That is really important. If you take any gadget or thing that you are wearing, you will see that there will be component parts stretching right around the globe. I am sure Baroness Anelay can talk about that as well. I worked closely with her to ensure that countries all round the world could come up with a way of asking companies to account for themselves consistently, whichever market they are working



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in. I spend quite a lot of time in other countries making sure that our demands and theirs come together in a consistent framework so that multinational, global organisations can account for themselves, wherever they are operating in the world. We go right through those component parts. There is good progress on that. Baroness Anelay, I am sure, will tell you about that. We both recently met the UN rapporteur and it requires a lot of global action. Of course, the Prime Minister has set that as a personal goal. One of the strands of work of the task force is to do with global compliance and stamping out slavery and trafficking all around the world from our supply chains.

Baroness Hamwee: With regard to statements, in both the repository and the content of the statement, you said something that made me doubt my recollection of the requirements. I thought it was enough for the legislation just to say, "Our statement is that there is no statement".

Sarah Newton MP: Every company has to have a statement. Any company with a turnover of more than £36 million has to have a statement that sets out clearly what actions they are taking.

Baroness Hamwee: But they can say they are taking no action, can they not?

Sarah Newton MP: No, that would not be at all satisfactory.

Baroness Hamwee: Certainly not, but it is whether it is to the satisfaction of the legislation.

Sarah Newton MP: Remember that under the legislation the Home Secretary—or is it the Prime Minister? It is an important person in government—can go to the court and demand that a company produces a statement. We have not taken those paths yet, because our approach is that we want to encourage businesses to do it. We want to take a best practice model and encourage all companies to take the lead from the best companies. We want to take that encouraging approach, but reserve that power so that we know we can use it at some point. We have seen from some of the work that independent people have been doing in analysing these statements that there are clearly already examples of best practice. I will look with business and colleagues to see how we can scale that up. We can produce toolkits and all sorts of practical tools to enable every business to be as good as the best businesses that we have in this.

Baroness Hamwee: One of the criticisms—I am doing the trick of not letting Chair catch my eye because I want to ask one more question.

Chair: Margot is going. May I interject to ask her two questions and then you can return to ask Sarah your question?

Baroness Hamwee: That is fine.

Q101 **Chair:** Margot, just before you go, we are coming out of the European



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Union and therefore out of those trade deals to which we are a party, which are EU trade deals with other countries, all of which have in them an EU clause about compliance with human rights. Are you expecting all the future bilateral trade agreements that we enter into to have no lesser human rights standards written into them than we are current party to by virtue of our membership of the European Union? That is the concern—that we will be so desperate for trade agreements that we will say, “Don’t bother about human rights; we’ll just go ahead anyway. Will you please sign here?” We would like reassurance about that. Secondly, is it a good idea to ensure enforcement and compliance, which is often the holy grail and the difficult business? Good intentions are plentiful, but the question is one of enforcement. Would it be a good idea to have provision whereby, if UK companies abroad breach fundamental human rights—for example by employing child labour—either directly or through their supply chain, there should be access to justice in the UK courts for those who might fall victim to the human rights abuse? So there are two questions: one about trade deals, one about access to justice in the UK courts if UK businesses breach human rights.

Margot James MP: In answer to your first question, I would certainly expect there to be no dilution of the human rights standards that we have signed up to in the plans that we have around the UN general principles and which are mirrored by the EU regulations that you have just mentioned. I would expect there to be no reduction in that commitment as a result.

Chair: Is that a government commitment? In a way, you are not here as somebody who is expecting things; you are telling us the Government’s position.

Margot James MP: I appreciate that.

Chair: Is it the Government’s position that we will not dilute the human rights levels that currently obtain in our EU trade deals?

Margot James MP: I would have to check that with the Trade Minister and the Secretary of State for the Department for Exiting the European Union. All I can say at the moment is that I certainly would not expect any diminution whatever.

Chair: Would you be happy with a dilution?

Margot James MP: No, I would not. Another reason why I do not expect that to happen is that, in general, Britain has a higher standard of operation in these matters than is found elsewhere in the world, including in much of the European Union. We are leaving the European Union but we are used to operating with higher ethical business standards and commitments to human rights. Therefore, it would be entirely illogical for us to do an about-turn on that prior position. It is not just a question of human rights principles; UK companies are used to working under the constraints of the Bribery Act 2010, which has now embedded itself in how multinational companies based in Britain trade and sell overseas. So



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we have managed to continue exporting with a much more stringent anti-corruption and anti-bribery framework behind us. That gives me comfort.

Chair: That leads to the child cruelty point.

Margot James MP: Yes it does.

Chair: How about embedding “not employing child labour” in the same way that we have embedded “not bribing”?

Margot James MP: My colleague will correct me if I am wrong but, if child labour is found in the supply chain of a company that is bound by the provisions of the Modern Slavery Act, it will be guilty of a criminal offence under that Act.

Chair: What about a victim’s right to get access to justice as a way of helping to enforce the principles set out there so that there is not a dependence on a prosecution?

Margot James MP: I take your point. I think that what you say is a very attractive proposition, but I am also conscious that the Ministry of Justice is concerned about the number of cases in our judicial system that already come from abroad. I am not sure that it would wish to add to that number. However, that would definitely be a question for the ministry, because at the moment it is not covered by the business and human rights principles for which I, along with a Foreign Office Minister, am responsible.

Chair: So it would be a question of practical implementation, not an in-principle objection, as far as your department is concerned.

Margot James MP: Yes.

Chair: Thanks. Do you want to come back to your point, Sally?

Q102 **Baroness Hamwee:** Yes, if I may. I have two quick points on the content of the slavery and human trafficking statements. I well understand that the Government would not look kindly on a statement that says, “There is no statement”, but has Section 54 of the Act been amended? The pause gave me a chance to have a look at it. It says that a statement is a statement of the steps taken or “a statement that the organisation has taken no such steps”.

Sarah Newton MP: I am grateful to you for coming back on this. The Prime Minister, the Home Secretary and I have made it very clear that we expect all businesses with a high turnover to produce a statement about what they are doing. You yourselves have heard evidence on this. The Act has been creating a step change in businesses. They really want to engage with it and are publishing their statements. Obviously, once we see the results from the whole first year and we see the statements, if we find that there are significant problems, including the one you are alluding to, we will take further action. We see this as a very important



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aspect of the Act. It has the potential to bring about a proper change, and we will be monitoring the situation very closely.

Baroness Hamwee: So you are open to making formal changes. You say that the repository of statements is jolly difficult. That, of course, is why it is jolly difficult to identify all the companies that come within it, and it is why the voluntary sector was so resistant. Am I right in thinking that at the moment, where there are repositories, companies have to sign up to them and there is a tick by a semi-commercial organisation showing that it has done the right thing? It is not a hugely satisfactory arrangement.

Sarah Newton MP: There are two issues that you are talking about here. First, there are the repositories, where anyone can find the statements, and the important aspect of transparency, so that people know where to go to find this information. The second issue that you are talking about is knowing which companies are supposed to comply. On the first point, because it involves a turnover of more than £36 million a year, people will come in and out of the list. That is the complexity but we do not think that it is—

Chair: Sarah, may I butt in? You referred to that previously. Some will be on the margins and some will go in and out of the list, but why let that prevent you publishing the list of all those who are definitely on it? At the moment, there is nothing. Surely you could get on and publish those that you are absolutely certain are within the parameters of the Act while you carry on worrying about those which are marginal.

Sarah Newton MP: We think it is really important to get this right. As I alluded to in my previous answers, I do not think that you will be waiting too much longer, and I do not think you will be disappointed when you see the outcome. We have been very carefully working on a way to do this. It will happen before too long and I think you will be pleased with the action that we have taken.

Chair: Roughly by the end of this year?

Sarah Newton MP: I hope that by the end of the year you will be very pleased with the positive steps that we have taken. I am sure that if you are not, you will invite me back to question me more about it.

On your second point about the two repositories, they are run by two NGOs. You can go along and have a look yourselves. They are held by Unseen and the Business & Human Rights Resource Centre¹. Companies themselves are putting their statements on the home pages of their websites. So, as you say, quite rightly anyone will be able to go and see that no slavery is involved in the food and products that we buy from big British companies such as Marks & Spencer and Asda. Their statements can be on their home pages. We will monitor this to see how it goes and,

¹ Correction by witness: The company which runs the repository referenced by the Minister is 'Semantrica Ltd', not 'Unseen'.



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if there are any concerns that it is not transparent or that people are having difficulty accessing the information, we will revisit it. As I said, Kevin Hyland, the independent commissioner, is doing some work on this, and perhaps you will come up with further suggestions. We are determined to do everything we possibly can to make this work and we are always open to suggestions as to how we can improve it.

Chair: Thank you. David, could you ask your question at this point?

Q103 **Lord Trimble:** Gangmasters and labour abuse have been put together in a curious way. Gangmasters focus only on a limited sector of the economy; labour abuse is general. It is rather strange to put them within the one authority. With gangmasters there is a licensing power, but there is no licensing power with regard to the other part of the body, so I just wonder how that will work out.

Sarah Newton MP: As you say, Professor David Metcalf started work on 1 January creating Labour Market Enforcement, which brings together three bodies, as you say: the Gangmasters and Labour Abuse Authority, the Employment Agency Standards Inspectorate and HMRC's National Minimum Wage Team. At the same time, we have made significant reforms to the GLAA. In the Immigration Act, which is coming into force this year, the scope of what they can look at has broadened. You are quite right to say that in the past the old Gangmasters Licensing Authority traditionally looked only at food production and food processing. Now it can look at any area of the UK. The whole purpose of having Professor Sir David Metcalf is to use intelligence to see where the risk is of abuse in the labour market right across the piece, from health and safety and people not paying the minimum wage right the way through to slaves, and to go where the data takes them. There is a huge amount of work going on with the National Crime Agency to have a real intelligence-based approach.

Professor Metcalf is being asked to write a strategy at the moment and he will look at risky sectors. Some have already been identified, such as care homes and whole new areas of employment that will have a particular focus. The people working in that agency themselves will have a lot more power such as police and investigative powers, a whole series of orders and sentencing. We have given a lot more tools, resources, enforcement powers and sentencing so that people who are carrying out these totally unacceptable practices in the UK will feel the full force of the law coming after them.

Chair: May I follow that up with a point about licensing? You have talked a lot about the GLAA looking at things, but in the past it looked at things and then used licensing—taking away licences or not allowing somebody to have a licence—as part of enforcement. Does it not make sense, if they can look at other things such as construction or care homes, that they also take their licensing powers into those areas? Secondly, are you aware that the GLAA is worried that it undermines its effectiveness that the penalties handed out by the courts are less than the cost of a licence,



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so it cannot use its licensing powers effectively?

Sarah Newton MP: I am sorry if I did not make this clear right at the start. It is Professor Sir David Metcalf at Labour Market Enforcement who is doing this comprehensive risk assessment and setting the strategy for each of those organisations. At the same time, the new body that replaced the GLAA is the one that has the new and increased powers. You are right: it used to use licensing as a way of controlling particular types of employment. We think that the new orders that are coming into effect will give it more powers.

Let us take an example. It inspects an organisation and finds that there are a range of abuses there. The first thing it does is place an enforcement undertaking on that organisation, which has to agree to put in place the minimum wage, say, or driving out other types of exploitation. It has to agree to a set of actions, and it has two years to comply. If it does not comply and co-operate, we move on to an enforcement order. If it still does not comply at that stage, we can go to court. The penalties on that organisation are fines and up to two years' custodial sentence. We think that those new powers will be more impactful than the old regime. But we are in dialogue with the arm's-length agencies that work with us in the Home Office and jointly with BEIS. If we find that in the course of their work they want different tools, or new tools that will help them catch the perpetrators, we are always open to doing that.

Lord Trimble: I am still not quite sure how this will work. You say that Professor Metcalf can set the strategy for those bodies, but he does not run the bodies. That is a rather curious situation: several different bodies have to comply with a strategy worked out by this person, and their powers vary. Would it not be not better to put all this together?

Sarah Newton MP: There was a huge amount of consultation about how we can more effectively drive out abuse in the labour market in the UK. It was felt that each of those organisations had operational expertise and knowledge about those particular things. The people enforcing the minimum wage in HMRC are quite different from the people who are looking at labour market abuses in care homes or agriculture. It was really important that they had the opportunity to join up their work. That was the thinking behind bringing them all together. From my meetings with those agencies I know that joining up and collaboration has been very much welcomed.

Other partnerships will be in place, especially with some of the work that we are doing through the NCA on slavery and on organised crime. There is that joined-up approach, with the individual bodies having the operational focus but operating in a broader strategy. I certainly see that we need to be thinking about organisations that have poor health and safety, and poor compliance with minimum wage, all the way through to slavery. There is a spectrum of abuse in the labour market that we need to tackle.



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Chair: Before we let you go, Sarah, can I bring Karen in?

Q104 **Ms Karen Buck:** I have the same line of questioning. When we met the Gangmasters Licensing Authority chief executive last week, we talked about EU workers in some of those same areas of business. She told us that there are already signs of increased concern among some EU nationals about the uncertainty of their position and it leading to the potential for greater exploitation. Are you aware of that? To what extent do you think this is an emerging problem? What is your plan to respond to it?

Sarah Newton MP: I think your question is really about EU citizens. Obviously, they are doing really important roles in our society and I quite understand the uncertainty that they face. As someone who lived and worked in Italy for four years, I can absolutely understand what it must be like to be a Brit abroad in Europe and the uncertainty about their status as well. It is something that I can personally relate to. The Prime Minister has made it very clear that she sees this as a top priority for getting an early agreement with our relationships with the European Union post-Brexit. When she was in Valletta, she got some commitments from the President of Spain. We are working on that very actively.

Ms Karen Buck: Thank you. It is obviously something that Chair and the Committee are concerned about generally. I think I have the largest number of EU residents in my borough of anywhere in the country. There is a great deal of concern. The specific issue here is EU workers, particularly in the areas of business that fall within the area of concern about gangmasters and people working particularly in agriculture and related sectors, where evidence is beginning to emerge that the uncertainty is leading to the potential of greater exploitation of those workers. Has that been raised with you?

Sarah Newton MP: On the assertion that there is an emerging problem, no, that has not been raised with me. I have taken note of that and will go back to the chief executive and ask her to share the evidence that that is the case. Certainly, it is very important that the immigration system that we set up post Brexit can meet the needs of businesses here to have people in agriculture, the NHS and care work. I know that my colleagues in the Home Office are actively working on that. I will definitely take that point away, and if there is any evidence whatever we will take action.

Ms Karen Buck: Do you accept, as I think came through in last week's evidence session, that the potential of a different and, in a sense, more conditional arrangement for workers post Brexit, such as through a seasonal visa, could lead to exactly that kind of problem: the reliance of the worker and therefore their unwillingness to complain about conditions, because they are dependent on these arrangements? Does that worry you?

Sarah Newton MP: I think we all have to accept that the UK is a highly desirable place in which to live. People who live in poor countries around the world really want to come and live here. We all have to be very aware



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of the fact that there are people who will exploit that desire and will want to traffic people into the UK to work here. It is something that we are very alive to now and will be alive to every single day: that we have to do everything that we can with the source countries where the trafficking is coming from to engage with those countries and the citizens of those countries to disabuse them and to inform them of the reality so that they do not fall prey to the traffickers.

Ms Karen Buck: But would there be an argument for greater capacity, certainly in enforcement, if an even larger proportion of workers was presumed to depend on their employers for visas?

Sarah Newton MP: We allocate resource on the basis of the level of risk. This is where the creation of the new post that Professor David Metcalf has taken up is vital, because we need to bring together all the types of intelligence that are available through the various agencies, including the National Crime Agency, that are tackling this issue, to make sure that we have up-to-date information on the threats, and then we can deploy resources to tackle that.

Chair: Could we finish with a small question from Jeremy and a small answer from Sarah, because we have to let you go shortly?

Q105 **Jeremy Lefroy:** Thank you, and good afternoon. When I visited Boston, Lincolnshire, last week with the Exiting the European Union Committee, we heard of practices whereby, under a gangmaster, migrant workers are paid to go on buses within the UK and are taken around the fields. There may be no work at all for them, so they end up having paid to be transported around but having no work at all that day. That strikes me to some extent as a form of exploitation, because to keep fruit and vegetable production going, it seems to me, there needs to be some kind of excess labour available, but they are not paid. How do you regard that sort of situation, which is going on at the moment and seems to be perfectly legal?

Sarah Newton MP: I would like to speak to you further about that to really understand what is happening. I know that the police are doing a huge amount of work in that part of the country. They are very concerned about trafficking and labour market abuse in the sector where people harvest crops. I am due to chair a big summit with a lot of stakeholders in that part of the world to make sure that we fully understand what is going on and that we are using all the tools in our toolkit to go after any perpetrator of labour market abuse, trafficking or slavery. We have shown ourselves to be very responsive, and if there are new and emerging types of exploitative behaviour we will not hesitate to take action.

Jeremy Lefroy: I would be very grateful if you could look at that specifically when you do. Thank you.

Sarah Newton MP: I will.



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Chair: Finally, before you go, you mentioned that you hoped to have a list of modern-day slavery companies by the end of the year. We have heard that the issue of EU citizens here is a top priority to ensure that we do not have the problems of insecurity that exist at the moment. What is the timescale for that? Will EU citizens know by the end of the year whether they have a right to reside here?

Sarah Newton MP: I am not at all in a position to comment on a timescale.

Chair: Okay. Thank you so much, Sarah and Chris.

Examination of witnesses

Rt Hon Baroness Anelay of St Johns DBE, Rt Hon Sir Oliver Heald QC MP, Rob Fenn and Rob Linham OBE.

Q106 **Chair:** Good afternoon. Thank you very much for joining us. Come and sit yourself down. I saw you on the screen just a moment ago, so you have hot-footed it from the Chamber. Thank you very much indeed. Oliver, thanks for joining us again.

We are looking into human rights with regard to the work of UK businesses in this country and abroad, so we are very grateful to you and the two Robs for joining us.

May I start with you, Baroness Anelay? We know that we have embassies all around the world and that they are important points for promoting UK trade. How much are human rights, and what UK business does, on your department's agenda?

Baroness Anelay of St Johns: Human rights is an issue that goes across the whole of the Foreign and Commonwealth Office. Not only are those currently in post around the world keenly aware of our commitments to human rights and to business and human rights but, as part of their career structure, they are posted back to the UK. Therefore, they see at first hand in the Foreign Office how human rights are interweaved across the work that we do, as well as cross-departmentally. So it comes as no surprise to them when they see it as a major part of their work in advising and assisting British citizens who try to carry on trade overseas. As I said, human rights is a major part of their work—not only business and human rights, as it is sometimes described, but human rights per se. That is the strength of our network. They have a strong international voice and a strong understanding not only of our commitments but of how prosperity depends on security and of how security is closely allied to having human rights respected.

Chair: Thanks very much. Doreen, would you like to take us forward with the questioning?



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Q107 Baroness Lawrence of Clarendon: Thank you for coming. As a Committee, we would like to thank Richard Moore and his team for the support that we had when we visited Turkey last year. Perhaps, Baroness Anelay, you could pass on our thanks to him and his team.

My first question is: can you give us an update on the UK national action plan? It has been criticised for the lack of new commitments, as well as for failing to undertake a baseline study so that progress can be evaluated. When do you intend to update the plan again, and will you commit to including new and measurable objectives?

Baroness Anelay of St Johns: On updating our action plan, not only were we the first country to have an action plan in 2013 but we were the first to update it. When you are very much at the front, it is difficult to benchmark against the performance of other countries, but that is clearly what we work towards. I also find that if you have a predicted date for an update, it becomes a rather false way of doing things. I would much rather have a regular system of updating, which we do not only through our annual human rights report on business and human rights but through our six-monthly updates online. For those who are interested in business and human rights, so much is now useable online, and the country-specific reports also refer to it.

How are we going to take forward the work? We are making sure that we entrench success where it has already been achieved and diagnose where there is more to be done. Clearly, the development of a benchmarking system that we have funded has been important. I understand that a pilot scheme will be reported on in March this year. The first 100 countries in that pilot will have a report on them, and following the pilot the scheme will be rolled out to 500 countries. We provided the primary funding to set that in train.

It is a continuous process, and I appreciate what you say about some people thinking that the update would have a whole range of new commitments. When one looks at the points in the update, one can see that what we do will be both ambitious and lengthy. There are at least eight points saying what more we will commit to. In signing up to something, I always like to make sure that it is real and that it can be delivered, even if it is testing, rather than just whistling in the wind, which sometimes happens in an international field but not when the UK is acting.

Baroness Lawrence of Clarendon: Following on from that, some of our team visited the national action plan centre and we felt that in places it seemed underresourced. When looking forward at benchmarking, how do you square the two things if the resources and the volume of people are not there?

Baroness Anelay of St Johns: As the Committee will be aware, the National Contact Point comes within the remit of the Department for International Trade. The important support that it gives is in providing a non-judicial remedy, which is mediation. Clearly, where mediation has



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not been successful, that is made public, and it is important that we are able to see a report on what action can be taken. In this country mediation has also been seen very much as a way forward in other forms of dispute. One then measures the success of the National Contact Point when one has the opportunity properly to evaluate it, and I am sure that that is what the DIT will do.

Baroness Lawrence of Clarendon: I want to ask more questions about the Foreign & Commonwealth Office. What is its contribution to the NAP, and how do you liaise with BEIS? Should the Foreign and Commonwealth Office be considered as the main department with responsibility for compliance to the plan?

Baroness Anelay of St Johns: I am sitting beside someone who does the day-to-day hard work of cross-departmental liaison. I of course liaise with Ministers, but officials deliver this cross-departmentally. Perhaps I could invite Rob Fenn to say what doing that is really like.

Rob Fenn: Thank you, Minister, Chair and the Committee. Yes, we developed the action plan with BIS, as was. That entrenched a habit of joint ownership and a joint approach. In the production of the first action plan, we consulted BIS and other stakeholders—civil society—and we did the same again when producing the update. So I can assure you that departmental co-ordination is extensive and frequent, and its last iteration was just 10 days ago.

Baroness Anelay of St Johns: If I may briefly add to that, Chair, I saw some of that consultation when we had not only round tables but events to gather together NGOs so that we could be challenged about how we were updating the national action plan. That is a process that we always encourage other countries to do when they form their national action plans. In Columbia, for example, we helped to fund the consultation with over a quarter of a million people about their national action plan. Consultation is key to future success.

Q108 **Fiona Bruce:** Thank you very much for coming today. I thank Baroness Anelay for all the work that the FCO does on human rights. I believe that it has strengthened over the last few years, as I have observed it as a member of the DfID Select Committee.

Could I ask you to give some specific examples of the success of the national action plan that you have talked about and the difference that it has made since it was created in 2013 to people's lives on the ground in terms of human rights? I would like to ask the same question in relation to the National Contact Point. What can we point to where we can say, "Yes, this has made a real impact on people's lives"?

Baroness Anelay of St Johns: First, with regard to the National Contact Point, clearly with the DIT in control, it would be able to give specific examples of where mediation has been successful. For me, the National Contact Point has shown its success in the fact that mediation has



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occurred, and I understand that more cases have been resolved than been left unresolved, which is obviously a way forward.

With regard to the impact of the national impact plan, I believe that it has brought together some of the major industries, whether Unilever or others, which have then driven the process forward by recognising that, for them, leadership in human rights means that it is also good for the balance sheet, good for their employees and good for the consistency of their employees.

For me, perhaps the most obvious example is the one that the Home Office will have told you about—our commitment on eradicating modern slavery and introducing transparency into the supply chain—which is having a dramatic effect. I sit on the Prime Minister's special committee on that and I can see the forward plans for the FCO, which will be key to working in countries from which we receive people who enter the supply chain and in countries from where people are being trafficked. I can see the continuing commitment.

Fiona Bruce: You mentioned that the Department for International Trade overseas the National Contact Point and could give us some specific examples. If you agree, we will write to the department to seek some examples of where the victims' lives have been changed as a result of the mediation, because, in a sense, the mediation will not change anything unless action comes from it, and that is what we are interested in.

Baroness Anelay of St Johns: You make an extremely interesting point; if that sounds terribly condescending, I do not mean it to. Before I went into politics, I spent 20 years with the citizens advice bureaux. Now, as the Prime Minister's special representative for preventing sexual violence in conflict, I come across victims in that capacity, too. What has always struck me is that so often people who are involved in mediation are not looking for the same outcome as those who are used to a legal structure. It can vary. For some it is simply being believed, which is not a simple thing; some people come out saying, "Even though I do not feel I am going to get compensation or a written apology, I was believed. That has changed my life and I have moved on". Others will want some form of public remedy, and the important thing about the contact point is that it can do that within mediation; it can ensure that the company concerned, if there is a reason for so doing, can either provide an apology or change its future behaviour. They can say to the person, "What happened this time is wrong and we will change our procedures so that it will not happen again".

Fiona Bruce: That is good for the future, but it does not necessarily help the people who have for example been affected by an oil spill and lost their livelihoods and homes.

Baroness Anelay of St Johns: And, of course, it depends where the oil spill may be—sorry for the tongue-twister—as to whether or not there would be competence within this country for any remedy to take place.



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That is another matter, but we have other venues for remedy. The benefit of the guiding principles—or Ruggie principles, as I always used to call them—is that they not only provide the Government’s responsibility to promote and protect human rights and individuals but ensure that we encourage businesses to respect human rights, and they give access to remedy, which can cover a wide range of avenues, only one of which is the National Contact Point.

Chair: That leads in to the point I would like to invite Karen to put now.

Q109 **Ms Karen Buck:** I have two or three questions relating to remedy. The first is on the issue of corporate economic crime. You will be aware that there is a debate about whether a failure to prevent duty should be applied to human rights cases. What is your response to that? Is it something that could be incorporated?

Sir Oliver Heald MP: To start, the issue of failure to prevent has been very helpful in relation to corruption. When I was on the Bribery Bill Committee, we looked in detail at the effects of economic corruption on a developing country’s GNP. The evidence was very clear that it undermines the economy and means that countries cannot achieve the success they would want to. So in the Bribery Bill, which is now an Act, the Labour Government introduced a provision that failure to prevent bribery would lead to corporate liability, which I think has worked well. When I was Solicitor-General, we introduced a provision for deferred prosecution agreements, which gave some tools for improving the behaviour of companies that had lapsed. They were made to pay penalties and so on, but it gave the ability to give them a work programme so that they could improve their economic performance and stick to proper principles of not bribing officials overseas. We have a consultation that at the moment is calling for evidence on whether we could take that wider and have a more widespread failure to prevent offence. All that is underpinned by the idea that economic crime damages countries and we are concentrating on that criminal sphere.

As Ms Bruce mentioned, human rights abuses are often incidents where a company has misbehaved and as a result an individual has been harmed and wishes to bring a claim for compensation. We, like other European countries, are a leading nation in allowing for human rights claims in our civil courts. We are also very active, in the way that Baroness Anelay described, in respect of other remedies that are not judicial but are none the less significant. So my view is that we have a set of remedies available and that the system is working. Because economic crime is crime, a different approach is appropriate to these cases, where there is a civil wrong.

Ms Karen Buck: So does it not worry you that there have been so few criminal law prosecutions in cases of human rights abuses that would be criminal offences?

Sir Oliver Heald MP: In so far as criminal offences have been committed, you would have to give me sight of the cases that you are



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concerned about. There is certainly a very big drive to tackle offences of rape, for example, which have been committed overseas. There is a range of other extraterritorial criminal jurisdictions which I believe the Crown Prosecution Service takes extremely seriously.

Ms Karen Buck: Moving on, the Government have announced the LASPO review. There are cases that have potentially come out of scope that may have been relevant in this area. One issue that particularly concerns some lawyers in this field is proportionality and whether the proportionality test might mean that cases involving small numbers of people who have been affected by human rights abuses could not be taken forward so easily. This comes back to some of the issues relating to supply chains and whether the ability to prosecute has been undermined in any way by LASPO.

Sir Oliver Heald MP: The civil legal aid situation is that if there is any question of our international obligations being at stake, which could well apply with human rights, exceptional case funding can be made available and the Legal Aid Fund can make that decision.

Ms Karen Buck: Do you know whether that has happened in any of these cases?

Sir Oliver Heald MP: I do not have it to hand, but you will be aware of cases that have had legal aid funding in the past. I do not know the current position, but if you want to know more I would be happy to write to the Committee.

In terms of the review more generally—I do not know if this is helpful—we have said what the timetable is. We are going to produce for the Justice Committee our post-implementation memorandum for the whole of the Act by May. We are going to do the post-implementation review of legal aid, which is part 1, over the period up to next year. We will produce a Green Paper early in 2018. Part 2 covers conditional fee arrangements, which have been mentioned in evidence to you in this inquiry, and we will review that in 2018. So we are determined to review it. Yes, some areas were taken out of scope, but we promised to review it and we are going to.

Q110 **Ms Karen Buck:** One of the other concerns is the impact of the Rome II regulations and the fact that they might have made it harder to bring cases. Do you have a view of whether those regulations will be incorporated into British law post Brexit?

Sir Oliver Heald MP: That is part of the discussions on Brexit, which I have previously given evidence to the Committee about. The point about Rome II is that it is well accepted across Europe, obviously, and it is useful that we have the same sorts of rules about how cases that are not contractual are dealt with. The effect of it, which is sometimes criticised, is that it basically works on the idea that the case will take place in the country where the damage occurs. That can mean that those rules



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require a case to be heard elsewhere in Europe rather than here. On the other hand, there is certainty.

Ms Karen Buck: The third area is the tribunal fees. I think you accept that the Government's position on this has been fairly heavily criticised by other committees. Could you let us know how that review is progressing? The decision to impose fees and what has happened subsequently has led to criticism, particularly from the TUC, which regarded it as being a bonus for Britain's worst bosses. How do you respond to that criticism?

Sir Oliver Heald MP: We have now published our review of this, and we are consulting on some improvements to help with fees. That is the remission scheme that applies so that people with fewer means can have some help with the fees. Overall, though, we believe that the policy has worked in the way that we intended it to, which was, first, that we would recover some money to help with the costs of running the tribunals and we recovered about the amount that we expected. Secondly, we wanted to improve the take-up of conciliation. ACAS, which is strongly supported by the TUC and the CBI, is a wonderful resource. It is free and it allows people to have their case dealt with without the distress of a tribunal appearance. We allowed that to happen in every case, and the number of cases that go to ACAS has gone up from 23,000 a year to over 45,000. A total of 92,000 cases have been offered this help. In addition, overall, more people have had justice because they have been to either ACAS or a tribunal, so a larger number are being helped.

The only point I would make, and the reason why we are consulting on some help for the group who have fewer means, is that the survey work for the inquiry showed that there was a group of between 3,000 and 8,000 individuals who said that they had found the high fee off-putting. That does not necessarily mean that it was a barrier—indeed, we think it may not have been—but we thought it was right to offer a change in this consultation that would increase the amount of help available.

Ms Karen Buck: Could you clarify that point? They said that it was off-putting, but you did not think it was a barrier?

Sir Oliver Heald MP: Well, we are not sure. Imagine that you were thinking about taking any case, not just a tribunal case. You would look at your prospects of success and how much it would cost you, and you would think it over. It could be off-putting because you did not think that your case was quite as strong as all that or because the figure was so high, or it could be a case of weighing one up against the other. So we are not totally convinced that each of these people has been put off and found this a barrier. Still, it seems there was an issue there, so we felt, "Well, look, some help's needed", and we are offering that extra help.

Q111 **Amanda Solloway:** I should like to go on to Brexit. Baroness Anelay, has your department historically played any role in negotiating trade deals? What are your views on human rights clauses in these trade deals? Has



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the Department for International Trade sought your advice on negotiating these new trade deals?

Baroness Anelay of St Johns: With regard to the historic position, as well as looking forward to what the DIT is doing now, the answer is the same. There is consistency in that it is practice that for these discussions the policy is set across departments, and therefore the Foreign Office's view on the importance of human rights will be taken into account in any event.

I discussed free trade agreements and the issue of human rights yesterday with responsibilities from the overseas territories, who were here to give their views about how Brexit will affect them. We were discussing how, when you make a free trade agreement, responsibilities are always built into that. You have to choose whether you want to have human rights up front or whether you want a separate agreement on human rights with the country in the political sphere, because there can be other levers that you can use. It has been the experience that we have always looked, through the way EU works, to ensure that human rights are in the agreements at a political level. But my understanding from the answers that have been given so far on Brexit by my colleagues in the House of Lords is that, as the Foreign Office would expect, we will maintain the same level on human rights as a minimum.

Amanda Solloway: How would you measure that? When you say "as a minimum", what does that mean exactly?

Baroness Anelay of St Johns: We already have agreements on trade, not only through the EU but separately and as a member of the WTO, so we already have a baseline from which we can work. Of course, even through the EU there are different responsibilities according to the different trade agreements that have been reached by the EU. With regard to the position of the British Foreign & Commonwealth Office, Rob Fenn's work is to ensure that our views are across the whole system so that when people are in post in some of the most difficult parts of the world they can ensure, for example, that where the overseas business risk service could be provided they can use that and ensure that human rights accord to it.

Amanda Solloway: From what you are saying, it is an opportunity to increase human rights in the negotiations.

Baroness Anelay of St Johns: Brexit is certainly a challenge, of course, but I see it as an opportunity to look more closely at human rights work to ensure that we can build it into our work across all the negotiations on leaving the EU, but also to refresh the way that we approach our human rights work around the world.

I was asked earlier about where we have seen real changes made. Places such as Colombia, which 60 years ago one would never have thought would have a national action plan on business and human rights, have one now. I have seen continuing investment that has been put in place



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by our own ambassadors bilaterally—it is their choice to do so with the funds that they have at their disposal—to support human rights defenders to get the law changed and to protect people who are at risk from breaches of human rights. It is core to what we do.

Amanda Solloway: Out of curiosity, really, is that likely to jeopardise any trade agreements at all? Has anyone said, “No, we are not going to do that”?

Baroness Anelay of St Johns: I am not going to forecast the future. All I can say is that those of my colleagues from the real world outside politics who have negotiated trade deals say, “I have not seen anything yet”.

Chair: Can I ask Oliver a question at this point? You have talked about the way of holding companies to account for what they do overseas in relation to bribery. Do you think it would be a good idea to add to and strengthen the tools that are available to bear down on companies to ensure that they have the highest standards of human rights in order to enable cases to be brought in our courts where a human rights abuse is committed by a British business abroad, such as employing child labour? Do you think it would be helpful to ensure enforcement, including down the supply chain, if there were an opportunity for a victim in those circumstances to bring a case to the courts in this country and have strict liability, so that, basically, if a UK company abroad employs child labour it will find itself held to account in the UK courts? Is that not one of the most effective ways of making absolutely certain that companies, instead of saying, “Oh, but we’ve got a policy and we didn’t know what was going on”, are in no way involved in child labour?

Sir Oliver Heald MP: I think that would go well beyond the UN guiding principles, which are, as you know, that there is no requirement on states to regulate the extraterritorial activities of their businesses in that way. Having said that, we are a leading country, and we already allow victims of human rights offences allegedly committed overseas by a UK-domiciled company to bring a civil case in the UK courts, and people have done so. I am not sure that you would not have to go into a great amount of detail about which particular aspects you were keen to investigate. Human rights are really obligations on states, and the state has the duty under the UN guiding principles to encourage respect for those rights. That is what we are doing. You have heard about the work that the FCO and BEIS are doing, and we have provided very good courts for these cases to be dealt with in.

Having said that, there are rules, such as Rome II, which has been mentioned. There is a conflict of laws that are international principles of law that have to be respected. Personally, I think we have a pretty good set of remedies in place. We could always do better, I fully accept that, but I am not sure that to go to the point of introducing a large number of new offences on the criminal side or trying to add greatly to the current ability to sue would be the way forward.



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Q112 Chair: One important aspect for you as a Justice Minister is the rule of law, and one of the important factors for the rule of law is an independent legal profession. The regulation of standards in the profession is for the legal profession independently—independent self-regulation—rather than the Government regulating it. That is right, is it not?

Sir Oliver Heald MP: You will know that there is a structure involving the Legal Services Board and the professions' own bodies, but I think it is independent. I do not think it is self-regulation as such, but it is independent these days.

Chair: So what do you think of the idea from the previous Prime Minister and the current Defence Secretary of picking out particular lawyers who are involved in human rights cases and criticising them? Should that not be left to the solicitors' regulation authorities and the disciplinary tribunal? Is it not a bit like judges in that they should be independent and regulated independently?

Sir Oliver Heald MP: I think it is vital that the judges and their independence are respected. We in this country are very lucky to have fantastic judges who are independent and incorruptible. In fact, when I was the parliamentary representative on the Council of Europe's Group of States Against Corruption, that was one of the things that people spoke about in relation to our country—that our judges were genuinely independent—although one person from a newly liberated country, if I can put it that way, said, "Of course, it's taken you 500 or 600 years to achieve it". Still, that is very important.

With regard to solicitors, though, if there is wrongdoing in that someone is found guilty of misconduct at a disciplinary tribunal, there is freedom of speech in our country and one can say, "Look, he's been found to have done wrong". In policy terms, one can ask, "Is there anything more that we need to do to stop that sort of misbehaviour?" So I am not sure I agree with you. Is it wrong to criticise someone who is found to have misbehaved?

Chair: I think the independence of the legal profession includes ensuring that the Government can be held to account by an independent legal profession, and that the Government do not try to take on the responsibility for deterring people from taking cases by trying to get involved in matters that are more appropriate for the Solicitors Disciplinary Tribunal.

Sir Oliver Heald MP: The case that I think you are talking about was dealt with by the Solicitors Disciplinary Tribunal, and the person concerned was struck off. I do not think it is necessarily wrong that people would then say, "He's done wrong. Is there any way of making sure it doesn't happen again?"

Chair: But you are talking about what happens after the finding. Do you think it is appropriate for there to be comments from the Prime Minister



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or the Defence Secretary before a finding?

Sir Oliver Heald MP: If someone came to me with evidence that a solicitor had behaved improperly, I would not ignore it.

Chair: You would refer it.

Sir Oliver Heald MP: Yes, that is exactly what I would do.

Chair: And you would let the authorities deal with it themselves, rather than making public statements.

Sir Oliver Heald MP: If I was asked by the press, "What did you do about this person who came to you with this material?", I would say that I referred it and I wanted the thing to be looked into in a proper way.

Lord Trimble: Chairman, are we dancing around the Shiner case, where a public inquiry said that Mr Shiner had behaved improperly? It is perfectly legitimate for the Minister to comment on that.

Chair: I am thinking about the independence of the legal profession and whether or not the profession can independently help to take cases in respect of human rights, particularly in relation to businesses that have acted abroad. You need a number of things in place, including an independent legal profession, in order to take those cases.

Sir Oliver Heald MP: We have to have an honest debate in this country. It is not right to ignore a situation where you feel there is misbehaviour of the kind in the particular case that Lord Trimble has mentioned. There was a very lively debate before the conditional fee agreements were changed about whether there was overcharging going on in that sphere. There have been cases where the Court of Appeal has said, "Well, look, there is no proportionality in the fees being charged"—by a firm of solicitors in a case about an extraterritorial incident. One such case involved Ivory Coast, where the damages in the case ended up at £30 million but the legal costs claimed were over £100 million, and the Court of Appeal said that that was not proportionate and cut them back. I think that in those circumstances I as a politician would be entitled to say, "Look, some of the solicitors seem to be pushing it on the fees, and that's something we should be taking account of in the debate". The case was *Motto v Trafigura* in 2011.

Q113 **Chair:** Your department has been accused of being invisible in relation to the national action plan, particularly on the issue of remedies. Did your department input into the process of updating the national action plan? If not, why not? Do you think you should be engaging more with it when it is next updated?

Sir Oliver Heald MP: We see ourselves as a key party to this in relation to the remedies, as you say, particularly the judicial remedies. In fact, Rob Linham, who is here with me, is the head of the team. If he does not mind, perhaps he could explain what the involvement was.



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Rob Linham: Absolutely. Throughout the process of producing the updated national action plan, one of my team engaged regularly with “the other Rob’s team”, as I always have to say on these matters. There is a very close relationship between our teams as the two teams in government responsible for the different aspects of human rights. This member of my team was engaged throughout the process as part of the cross-government engagement that Baroness Anelay has already described.

The simple point on access to remedy is that this is an area where there is already a strong and consistent framework in the way that Sir Oliver has described, so in the updated action plan we say what needs to be said on the matter. Some further work was also commissioned that I am sure the Committee has already seen in the action plan. Very simply, we were there and engaged, but we always defer to the excellent leadership from the Foreign & Commonwealth Office on this point in particular.

Sir Oliver Heald MP: I do not know whether it is all right for Rob to mention that the department did some research work on this.

Rob Linham: Professor McCorquodale’s work was exactly the work I was referring to. It is a superb survey of the provision of access to remedy in this area and is cited in the revised action plan.

Q114 **Lord Woolf:** I was gratified by some of the evidence that you have recently given, and I thank you for it; I recognise that it is a very difficult area. There is one point that I would like to ask you about as a matter of emphasis. Do you think that in both government departments there is a sufficient recognition of the leading role that this country plays when it comes to providing resources? The fact is that we can play a very significant part in raising the bar of standards generally. I think that a very limited amount of support can be given by government departments, no doubt because of their many other commitments, but do you think that we have the balance right?

Sir Oliver Heald MP: It is important to recognise what a big player the UK is in strengthening civil society in other parts of the world, particularly the legal systems. There is really a partnership between the NGOs, such as the Slyn Foundation—there are a number of others that Lord Woolf will know of—and the Department for International Development, which is often the department that enables that to happen. Our Ministry of Justice international team is very active in taking on projects, but we also recognise, as do the law officers who deal with the Slyn Foundation and others, that we do our very best by taking out some top judges to other countries to help with advice work. I keep in touch with Amanda Pinto, the representative of the International Committee of the Bar Council, and others. I think that as a country we do very well, but it is not just about government; it is about the NGOs, which do fantastic work with us.

Baroness Anelay of St Johns: Picking up on that very point, Chair, the Foreign and Commonwealth Office has several funding streams, as I have learned to call them. The objective is to ensure that human rights are at



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the fore of having stability. Looking specifically at the funding for business, human rights and the modern slavery project, we are talking about £1.5 million over the next two years, but that is dwarfed by what we do. I would mention, for example, the start-up that we have provided for the Myanmar Centre for Responsible Business in Burma. We started that but our colleagues at DfID have continued to fund it. It has provided huge support for those who trade in the area and is very well respected.

Also, I have seen at first hand the funding that we have been able to provide through the Conflict, Stability and Security Fund and through our own Magna Carta Fund for Human Rights and Democracy. For example, there are two projects in Colombia to support those who suffer in the extractives industry and to provide support for human rights defenders there. So there is a wide range of support. When we engage with the NGOs, we look very much at how to ensure that the prosperity agenda of that country is secured. If it is, that is good for the UK because we then benefit from trade with that country too.

Sir Oliver Heald MP: We are also one of the most active delegations in the Parliamentary Assembly of the Council of Europe. Certainly, when I was there, it was very good to be able to meet groups of human rights defenders from parts of Europe that are less fortunate than us in terms of human rights. Also, the countries that had been on the end of judgments from the ECHR would have to come to the Committee on Legal Affairs to explain exactly what they were doing about those judgments and to be questioned by the rest of us. Things like that where the UK plays a very active part are helpful too. Of course, it costs the country money to be part of that but it is a very good thing.

Chair: I think that that question from Lord Woolf concludes our questioning. Thanks once again, Oliver, for giving us the benefit of your knowledge of your department's activities. And thank you very much indeed, Baroness Anelay and the two Robs.

Lord Trimble: I want to make a very quick point. You mentioned the CSSF. I hope you will see the report that was published on that yesterday.

Chair: Thank you very much indeed.