

Border Security, Asylum and Immigration Bill: Still a Tool for Exploitation

February 2025

2025 marks the 10 year anniversary of the Modern Slavery Act. Since that time the gaps in the UK's systems to prevent, identify and address exploitation, including trafficking and modern slavery, have been well evidenced.

The Border Security, Asylum and Immigration Bill misses a crucial opportunity to drive meaningful change to ensure that all victims of exploitation are protected, whatever their immigration status.

The Fundamentals

- **The Border Security, Immigration and Asylum Bill is a continuation of previous governments' anti-migrant policies.**
 - By failing to repeal key elements of the Nationality and Borders Act 2022 and the Illegal Migration Act 2023, **this Bill does not address key drivers of exploitation.** Instead, this Immigration Enforcement centred approach fails to provide meaningful opportunities for survivors to recover through security and decent work. This only plays into the hands of exploiters.
 - By failing to repeal key elements of previous legislation, **the government is committing the same errors that they had criticised previous governments for.**

- For example, now Safeguarding Minister Jess Phillips MP referred to the illegal Migration Act 2023 as “**a traffickers’ dream, a tool for their control**”. And yet the bill fails to address immigration structures that facilitate exploitation.
- **Exploitation takes place on a continuum.** Without means to challenge exploitation early on, the conditions for more severe exploitation including trafficking and modern slavery are created. The Borders, Security, Immigration and Asylum Bill needs to change the immigration structures which allow exploitation to thrive, through ending the use of restrictive and short term visas, extending entitlements to residence permits and providing bridging visas so workers can support themselves while bringing claims.
- **Ending labour exploitation is not achieved by punishing its victims, but by stopping the conditions that create it in the first place.** We must ensure access to decent work, create safe channels for reporting abuse and ensure that there are practical options in place for survivors, whatever their immigration status, when things go wrong.
- **Migrants’ rights are an essential pillar in tackling exploitation** Undermining migrant rights in the UK only acts to empower traffickers. To meaningfully disrupt trafficking networks, the Government should make sure that all victims and survivors of trafficking are able to access modern slavery protections and support regardless of their immigration status, in line with our international obligations.

Overview

The [Border Security, Asylum and Immigration Bill](#) comes at a crucial time. We are in a context of a prolonged assault on and undermining of protections for victims and survivors of labour exploitation and other forms of modern slavery. This has included hostile legislation and guidance which has been based on unevidenced claims of people ‘abusing’ modern slavery systems, a driving up of thresholds to be identified as trafficked and incredibly low grants of leave to people conclusively identified as trafficked. [According to the Helen Bamber Foundation](#), in 2020 to 2022, there were 5,578 adults confirmed as victims of trafficking but only 364 adults subject to immigration control were granted leave via the National Referral Mechanism (NRM).

[Many people identified as potentially trafficked choose not to enter the UK’s identification and support system](#) (the National Referral Mechanism) due to long delays, lack of permission to work while in the NRM, leaving them in limbo, [attacks on their credibility](#) and low probability of any stability or access to justice at the end of the process.

While we welcome the Bill’s repeal of the Safety of Rwanda Act and sections of the Illegal Migration Act, the Bill fails to draw a line under previous attacks on victims of exploitation; Nationality and Borders Act remains in place and deeply damaging parts of the Illegal Migration Act are retained. The narrative around the Bill continues to suggest that migrants are more likely to be criminalised through contact with the authorities, than supported to access rights or protected from exploitation.

What does it do?

The Border Security, Asylum and Immigration Bill retains parts of the Illegal Migration Act which expand powers of immigration detention and disqualification, denying people access to identification and support as a victim of slavery. This undermines the aim of the Employment Rights Bill to prevent exploitation at an earlier stage of the continuum of exploitation and [continues to fall foul of the UK's international obligation](#).

Clause 38 of the Bill repeals a number of provisions in the Illegal Migration Act 2023. However, it retains a number of deeply problematic provisions which put victims and survivors of trafficking at significant risk of harm, and flagrantly violate international law. For instance, the retained section 29 of the Illegal Migration Act creates a mandatory disqualification for public order or 'bad faith' grounds in a way that unjustifiably extends the grounds for disqualification within the European Convention on Action Against Trafficking. Similarly, it retains the expanded detention powers which were [roundly criticised by civil society](#) during the Illegal Migration Act's passage, due to the risk of exponentially increasing the number of people detained, the duration of their detention and incidences of neglect, abuse and serious health problems in detention.

The retained section 59 of the Illegal Migration Act on the inadmissibility of asylum and human rights claims directly undermines the Government's [stated commitment to human rights and the rule of law](#). Moreover, the expanded detention powers contained within the Bill in Clause 41 which retroactively strengthens powers for immigration detention pending deportation for criminal offending in the [context of significant failings of the detention system](#) will exacerbate profound and irreparable harm.

By failing to address how immigration enforcement is used by exploiters to threaten workers for seeking assistance or reporting to the authorities, the immigration system continues to undermine access to justice for all workers with insecure immigration status including restrictive work visas, the use of which have expanded in high risk sectors including care, agriculture and domestic work.

In the **adult social care sector**, migrant workers are too often scared to speak out or seek protection due to their dependence on their employer for their visa. At present, if a sponsor loses their sponsor license due to exploitative practices or non-compliance with their duties as a sponsor, the Health and Care worker has only 60 days to find another sponsor. This sponsor must be willing and able to sponsor a new visa - a task that has proved to be an impossible hurdle for many workers, when they and their colleagues have simultaneously lost their employment, are unable to support themselves, and are prohibited from undertaking new employment until they have a new visa. As the risks of visa cancellation increase so do the power discrepancies between employers who sponsor a worker's visa and migrant workers.

FLEX has advocated in the context of the [Employment Rights Bill](#) that for migrant workers to access rights in practice workers need to have real and practical options to leave exploitation and access justice. For instance, for the [Fair Work Agency](#), which has been championed by the Government as a ‘body with real teeth’, to be effective, it will need to be trusted by workers and have powers to provide workers with options for practical help. A context in which an aggrieved employer who is also a visa sponsor can cancel a visa resulting in immigration detention or removal, or workers are tied by their visa to their exploitative employer will undermine this trust, driving exploitation underground.

Recommendations

It doesn't have to be this way. This Bill could be an opportunity to put forward a constructive policy programme, and move away from an approach that, as the Government itself recognises, punishes victims for coming forward about their abuse.

A UK Workplace Justice Visa

As it stands, UK immigration policy is actively pushing migrant workers out of status. One example of good practice is Australia, where recent reforms protect migrant workers on temporary visas from being trapped in exploitative work due to their immigration status. This is through provisions which prevent visa cancellations where there is evidence of exploitation and which provide for a Workplace Justice visa, permitting work in any sector, while the worker seeks redress. These measures enable migrant workers in exploitation to leave exploitation without risking their immigration status, giving them time to find decent work with a new sponsor, and to work to support themselves in the interim.

‘I welcome the Government looking into things such as the Workplace Justice visa that Australia is doing where you treat exploitation as the primary concern [...] ‘We need to be able to give these victims the confidence that if they do come forward their perpetrators will be held to account and that they will continue to receive the support and care that they need.’

- Eleanor Lyons, Independent Anti-Slavery Commissioner

Temporary permission to stay for victims of human trafficking and slavery

During the passage of the Illegal Migration Act 2023, the then Shadow Spokesperson for Home Affairs, Lord Coaker, [called for](#) victims of slavery or human trafficking who have received a positive conclusive grounds decision to be granted:

- a. a residence permit lasting for a period of at least 30 months, and
- b. access to support services.

This position complemented the wealth of research from anti-trafficking organisations on the need for long-term support being necessary to ensure that victims and survivors [can recover and regain control over their lives](#). The current Safeguarding Minister, described Human Trafficking Foundation's research on lack of long-term support as a '[damning indictment of our failure to protect victims of trafficking](#)'.

Granting leave to survivors to allow them to move on from exploitation and begin to rebuild lives also makes economic sense, as well as decreasing risks of re-exploitation, including re-trafficking. [A Cost Benefit Analysis shows](#) significant financial benefits to the public from victims being enabled to move on and rebuild lives as well as a great number of unquantifiable benefits.

Secure Reporting

Now, more than ever, there's a need to ensure that all workers are able to safely report abuse and exploitation without fear of consequence, regardless of their immigration status.

Secure reporting (also referred to in the sector as 'safe reporting' or a 'firewall') can address this issue. Secure reporting ensures that migrant victims of crime are able to report abuse and exploitation securely without the risk of having their information shared with immigration authorities, and that agencies are better able to deliver their primary safeguarding duties.

‘We need to have arrangements in place where workers are not in fear of losing their right to be in this country as a result of putting their hands up about labour exploitation.’

- Margaret Beels, Director of Labour Market Enforcement

End the use of short term, restricted visas

The use of short-term visas must end. Examples of short term, restrictive visas which create risks of exploitation are the Overseas Domestic Worker (ODW) visa for work in a private household and the Seasonal Workers visa (SWV) for work in agriculture. Both visas are six months long and cannot be renewed (other than in the instance of a positive National Referral Mechanism trafficking decision for an ODW visa holder).

Exploitation of workers on both routes is prevalent for reasons including the workers' multiple dependencies on employers; for their ability to remain in the UK, work, for information, and often for their accommodation. The short term nature of these visas increases risky dependencies. This is because workers, who have often paid large amounts to migrate, know that their best option is to not complain or to challenge poor working conditions, but to focus on earning what they can during the short time they are in the UK. These visas are known

to push workers out of status due to their non-renewability, and the difficulties in exiting abusive employment and finding new work. To actively end labour exploitation, all UK work visas should be renewable subject to ongoing employment and have a route to settlement.

The Hostile Environment

As recognised by the [Council of Europe's Group of Experts on Action against Trafficking in Human Beings](#), hostile environment policies, including the illegal working offence and associated 'right to work' checks, considerably increase the risk of workplace exploitation for migrant workers. These policies make it harder for all migrants to challenge unfair conditions, change employers, take time off for sickness or demand fair wages, for fear of being reported to Immigration Enforcement. They enable employers to use workers' insecure immigration status to threaten, silence or trap them in exploitative situations.

Effectively ending modern slavery and human trafficking means eradicating the factors that produce the risks of exploitation in the first place.

'For us, like with the same [undocumented] status, I think it's very hard to work like that. Like you're in one cage only. You cannot come out.'

- Jacob, Southeast Asian worker

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About Us

[Focus on Labour Exploitation](#) (FLEX) is a research and policy organisation working towards an end to labour exploitation.

FLEX seeks to achieve this vision through the prevention of labour abuses, protection of the rights of those affected or at risk of exploitation and by promoting best practice responses to labour exploitation through research and evidence-based advocacy.

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