

# Modern slavery

The challenge of developing meaningful organisational responses



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New global estimates published in September 2022 by the International Labour Organization (ILO), the International Organization for Migration (IOM) and international human rights group Walk Free, suggest that there are 50 million enslaved people globally.<sup>1</sup> Of these, 28 million are said to be exploited through forced labour. In the UK alone, it is estimated that there are 136,000 people living and working under conditions of modern slavery.<sup>2</sup>

Modern slavery is the term used to describe a range of exploitative practices ranging from human trafficking to bonded and forced labour. The discourse around modern slavery emerged as part of a series of developments in both international and UK domestic policy including the Palermo Protocol, the Council of Europe's 2005 Convention on Action Against Trafficking in Human Beings and the 2015 UK Modern Slavery Act (MSA). The United Nations Sustainable Development Goal 8.7 explicitly includes a global call for action to eradicate modern slavery and related practices by 2030.

The term has become prevalent in debates around extreme forms of labour exploitation and is surrounded with political

- 1 International Labour Organization, '50 million people worldwide in modern slavery', 2021. Available at: [https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS\\_855019/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_855019/lang--en/index.htm)
- 2 Walk Free Global Slavery Index, 'More than 136,000 people are living in modern slavery in the United Kingdom', 2018. Available at: <https://www.globalslaveryindex.org/news/more-than-136000-people-are-living-in-modern-slavery-in-the-united-kingdom/>

**Some stakeholders actively support the labelling of modern slavery... while others categorically reject this stance on the grounds that it distracts from labour exploitation**

controversy.<sup>3</sup> Among academics, activist and practitioners, the term is often challenged and contested with no clear agreement on which phenomena, practices and actors should be subsumed under this label. The term has been criticised for covering too wide a range of practices, for obscuring the legacies of racial chattel slavery and the dynamics of the global economy that shape workers' vulnerability to exploitation. Other concerns pertain to the term being supportive of states' conservative agendas and national security interests around immigration.

In the UK, the introduction of the 2015 MSA, in particular section 54,<sup>4</sup> brought the issue into the spotlight and reached the boards of big businesses. Although initially hailed as a globally-leading piece of regulation, seven years on from its enactment, the MSA has not created a 'level playing field' for businesses nor driven a 'race to the top' in terms of respecting human rights as had been intended. Businesses have been concerned with the purpose, benefits, and costs of compliance or non-compliance with the reporting requirements of section 54 of the UK MSA, but have focused too little on the development of solutions to the core problem.

One of the reasons why meaningful action is still missing relates to the contested nature of the term among various stakeholders. My research investigated how stakeholders in the construction industry engaged with the discussion around modern slavery ahead of and after the introduction of the 2015 MSA to try to identify why no collective solutions to modern slavery had emerged.<sup>5</sup> I found that the mobilisation of specific frames i.e. schemata of interpretation that guide actors' perceptions and interpretations of modern slavery, has inhibited the emergence of collective solutions to deal with the issue.

Some stakeholders actively support the labelling of modern slavery, seeking to advance specific interests, while others categorically reject this stance on the grounds that it distracts from labour exploitation, and seek to shift attention to other issues, such as decent working conditions. This research took place pre-pandemic.

The post-pandemic outlook is not bright either. Recent geopolitical events such as Brexit, the war in Ukraine and the cost-of-living crisis are magnifying the vulnerabilities faced by workers. Some of these have forced people to migrate.

3 Recent books such as *Fighting modern slavery and human trafficking* (Cambridge University Press, 2021), *The modern slavery agenda: policy, politics and practice* (Bristol University Press, 2019) and *Modern slavery: the margins of freedom* (Palgrave Macmillan, 2015) have touched on these debates.

4 Modern Slavery Act 2015, c. 30. Available at: <https://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted>

5 Gutierrez-Huerter O, G., Gold, S. & Trautrim, A. 'Change in Rhetoric but not in Action? Framing of the Ethical Issue of Modern Slavery in a UK Sector at High Risk of Labor Exploitation', *Journal of Business Ethics*, 2021. Available at: <https://doi.org/10.1007/s10551-021-05013-w>



The UK has witnessed record numbers of migrants travelling across the Channel onto England's shores this year

The UK has witnessed record numbers of migrants travelling across the Channel onto England's shores this year. The dire conditions<sup>6</sup> and long processing times<sup>7</sup> experienced by asylum claimants at migrant processing facilities, in combination with labour shortages, are creating the perfect conditions for labour exploitation and modern slavery to thrive. The slow government response to asylum-seekers, in addition to the removal of the modern slavery brief from the minister responsible for safeguarding, has been accompanied by a damaging rhetoric led by the Home Office of 'abusing the system'<sup>8</sup> and the classification of the illegal crossings as an 'invasion'<sup>9</sup>.

This rhetoric is not new; my research showed that government actors have long pursued a stagnant narrative focused on aligning their public opposition to modern slavery with their political stance on immigration. Campaigners, activist groups, unions and NGOs have voiced concerns about the government's paradoxical response.

On the one hand, the UK government devised the MSA to combat modern slavery and protect victims while, on the other hand, it legislated the Immigration Bill underpinned by a political agenda aimed at clamping down on illegal working by criminalising undocumented workers who often are the victims of modern slavery.

In my research, I found that government actors advocated a 'crime' frame to define modern slavery. Many businesses have adopted a fatalistic stance depicting modern slavery as a something 'inevitable' and have used an amoralisation strategy to deny any responsibility for modern slavery. These two frames have been disproportionately amplified. Both government and businesses have portrayed modern slavery as an 'abnormality' rather than an endemic feature of our global socio-economic systems. What I found is that the dominance of these frames in the public debate since the introduction of the MSA has hampered the redirection of responsibility to businesses, which are still reluctant to develop solutions for the outsourcing and subcontracting model that drives the emergence of modern slavery in supply chains.

## The perfect conditions for labour exploitation and modern slavery to thrive are being created

6 O'Dowd, V. 'Manston migrant centre like a zoo, says asylum seeker', *BBC News*, (2 November, 2022). Available at: <https://www.bbc.co.uk/news/uk-63481151>

7 Syal, R. 'More than 40,000 asylum seekers in UK waiting one to three years for decision', *The Guardian*, 14 November 2022. Available at: <https://www.theguardian.com/world/2022/nov/14/more-than-40000-asylum-seekers-in-uk-waiting-one-to-three-years-for-decision>

8 Dugan, E. 'Watchdog disputes Braverman's claim modern slavery laws being "gamed"', *The Guardian*, 9 October 2022. Available at: <https://www.theguardian.com/uk-news/2022/oct/09/watchdog-disputes-bravermans-claim-migrants-gaming-slavery-laws>

9 Sparrow, A. 'Suella Braverman condemned for claiming asylum seekers engaged in "invasion" of south coast – as it happened', *The Guardian*, 31 October 2022. Available at: <https://www.theguardian.com/politics/live/2022/oct/31/conservatives-roger-gale-migrant-centre-manston-suella-braverman-home-office-commons-rishi-sunak-uk-politics-live>

## Some signs of advancement



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While most sectors are still grappling with the issue, there are some isolated examples of success in combating modern slavery in some industries. In the US, the Fair Food Program<sup>10</sup> brought together multiple stakeholders including worker-based human rights organisation the Coalition of Immokalee Workers<sup>11</sup> and major buyers, such as supermarkets and restaurants chains. Through a decentered, egalitarian, and collective approach, the Fair Food Program has focused on improving the working conditions of tomato pickers by developing a system of binding agreements between buyers and growers. The program includes a mechanism through which agricultural workers' collective voice is expressed, heard and responded to.

In the UK construction sector, some businesses are experimenting with novel approaches to combat the risk of modern slavery, for example, by focusing on specific construction projects in which clients, leading contractors and non-profit organisations work together. A recent illustration is the case of the Sky Innovation Centre project in which Sky, ISG (the main contractor) and the non-profit organisation Stronger Together collaborated.<sup>12</sup> A key innovation of this partnership was the involvement of project managers from the bidding process to ensure follow-up on the implementation of agreed ethical policies.

My research also showed that while the response from businesses to address modern slavery has been sluggish, their understanding of the issue has evolved. When the issue was first brought to light seven years ago, modern slavery risks were considered to be a problem exclusive to global supply chains, but those perceptions have changed. Businesses are now aware that modern slavery is a problem that is widespread across the UK.

Relatedly, businesses have corrected their understanding of the profile of victims. For a while, it was assumed that all victims were low-skilled immigrant workers who had been 'trafficked'. However, there is now a more nuanced picture of the circumstances experienced by people who are exploited through slavery-like practices. Some of these workers had not been forced to move but had in fact exerted their agency and sought greater freedom but ended up in debt bondage. These workers may have been offered a job in the UK with

10 See: <https://fairfoodprogram.org/>

11 See: <https://ciw-online.org/>

12 Stronger Together, 'Building a collaborative approach: understanding and addressing risk of exploitation and modern slavery during construction of the Sky Innovation Centre', 2022. Available at: <https://www.stronger2gether.org/product/case-study-sky-innovation-centre-feb-2022/>

## I have seen the rise of critical voices highlighting a progressive stance focused on decent work that has potential to lay the ground for collective action

‘free’ transportation, or they may have borrowed money from an employer/controller to cover travel and a job-finder fee. Once they arrived, they found the job either does not exist or is not what was originally offered, and are trapped trying to pay off the debt.

In my fieldwork, I have seen the rise of critical voices highlighting a progressive stance focused on decent work that has potential to lay the ground for collective action. Its advocates – industry champions, representatives of professional bodies and think tanks – are calling for an introspective assessment of business models, corporate culture and professional ethics that paradoxically contribute to the flourishing of modern slavery.

This viewpoint challenges dominant frames. It rejects the view that modern slavery can be resolved with ‘business-as-usual’ approaches and shifts the narrative by emphasising the provision of decent working conditions generally, rather than focusing on tackling slavery only as an extreme case. This viewpoint has the potential to reconnect businesses’ moral agency to the issue, thus empowering businesses as problem-solvers.

Some of the concrete actions advocates ask from businesses include verticalization i.e. reducing the number of links in supply chains, with worker recruitment concentrated in-house and workers’ labor decommodified by paying the ‘living wage’ rather than just the minimum wage. They also demand employers look after workers’ welfare and reduce short-term contracts.

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### Challenges ahead

As a ‘wicked’ problem, modern slavery is a complex issue that cannot be solved by a single organisation. While there is willingness from some employers to take action, various challenges lie ahead.

The first issue concerns detection. For many organisations, modern slavery and forced labour remain undetected. Labour-intensive sectors have complex and opaque supply chains which complicate the task of modern slavery risk identification. There have been several technological advancements, including the use of satellite information and geospatial data to predict the locations of modern slavery prevalence and hotspots (e.g. imageries assessing the relationship between deforestation and modern slavery) as well as the use of multi-criteria decision analysis (MCDA) for supplier selection.

However, most companies continue to rely on supplier self-assessment questionnaires and audits which are proven



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# £36m

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to be ineffective in detecting modern slavery risks. Some data management platforms rely on data-based on proxies e.g. ESG indicators focused broadly on human rights issues but there is a lack of integration of evidence-based risk assessment focused on modern slavery.

The second issue is navigating a complex international legislative environment impacting businesses' responses. From US import bans on goods made with forced labour,<sup>13</sup> to the EU's corporate sustainability Due Diligence Directive,<sup>14</sup> various countries are introducing a mix of legislative tools to help eliminate forced labour. This is a substantial game-changer in comparison to existing legislation that mainly requires commercial organisations to disclose the steps that they have or have not taken to address modern slavery.

Meanwhile, in the UK there is an ongoing climate of deregulation. Proposals for post-Brexit legislation could result in the disappearance of laws on workers' rights, including health and safety.<sup>15</sup> Following the UK's exit from the EU on 31 January 2020, the Brexit trade deal between both parties sought to ensure a level playing field was maintained in terms of employment law rights. However the Retained EU Law (Revocation and Reform) Bill 2022–23<sup>16</sup> seeks to end the special legal status of all retained EU law by 31 December 2023 which may lead to a deterioration in workers' rights and increase worker vulnerabilities.

The third issue pertains to the involvement of those businesses that form the majority of the economy in combatting modern slavery. SMEs represent 99% of businesses in the UK with a combined turnover of £2tn,<sup>17</sup> however, the MSA does not include these. Section 54 of the MSA only requires companies with an annual turnover of £36m or more to report on the steps taken to address modern slavery in their operations. Moreover, SMEs simply do not possess the same scale of resources as larger companies to address modern slavery.

Despite having a strong commitment to tackle modern slavery and more agile capabilities than larger businesses, many fall short in taking the necessary actions. The fight against

13 US Customs and Border Protection, 'Withhold Release Orders and Findings List'. Available at: <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

14 EUR-Lex, 'Proposal for a Directive of The European Parliament and of The Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937', 2022. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0071>

15 Foster, P. 'Fears raised over UK plans to review "retained" EU law', *Financial Times*. Available at: <https://www.ft.com/content/2d59739d-9e17-4c92-98ee-85eab12c00a4>

16 Retained EU Law (Revocation and Reform) Bill 2022–23. Available at: <https://bills.parliament.uk/bills/3340>

17 Federation of Small Businesses, 'UK Small Business Statistics', 2021. Available at: <https://www.fsb.org.uk/uk-small-business-statistics.html>

## **BS 25700 is the first British Standard which has ever been made freely available for everyone around the world to download**

modern slavery will not be successful unless SMEs understand, measure and improve their impact at scale and at speed.

To help organisations with some of these challenges, the British Standards Institution (BSI) has launched a pioneering national standard: BS 25700 Organisational Responses to Modern Slavery.<sup>18</sup> The standard raises the bar in combatting modern slavery by clarifying the practical steps that businesses need to take. It recognises the changing nature of modern slavery and related human rights legal instruments both at national and international levels. As such, it does not intend to replace these frameworks but instead harmonises best practice. The standard provides organisations with comprehensive guidance for managing the risk of modern slavery, including prevention, identification, response, remediation, mitigation, and reporting in its operations, supply chains and wider operating environment.

I was a member of the BSI Technical Committee on Modern Slavery. Together with other academics, public sector specialists, experts with lived experience of modern slavery, human rights lawyers, procurement professionals, risk management experts, representatives from different sizes of private-sector businesses, NGOs, and sustainability, human rights and modern slavery consultants, we developed BS25700.

Over the course of two years, I engaged in various debates concerning how to define modern slavery and advocated for the inclusion of plural views of modern slavery in the standard. The BS 25700 is a standard that can be used by organisations of any size, sector or type. This is the first British Standard which has ever been made available for free and for everyone around the world to download, making it a landmark standard.

If modern slavery is viewed as systemically inherent in neoliberal capitalism rather than as an abnormality, tackling forced labor and other forms of extreme labor exploitation become political issues that cannot be resolved with ‘business-as-usual’ approaches. Interventions at different levels aimed at dismantling the conditions that permit modern slavery to flourish will have to be considered in conjunction with greater government involvement. For businesses seeking to respond meaningfully to the challenge of modern slavery, this will require a holistic consideration of the problem and a strong stance in relation to the protection of human rights that rises above Britain’s hostile environment towards the most vulnerable.

18 British Standards Institution, ‘BS 25700: Organizational responses to modern slavery’, 2022. Available at: <https://www.bsigroup.com/en-GB/standards/bs-25700/>

### About the author

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