PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

MODERN SLAVERY BILL

First Sitting

Monday 21 July 2014

CONTENTS

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Friday 25 July 2014

STRICT ADHERENCE TO THIS ARRANGEMENT WILL GREATLY FACILITATE THE PROMPT PUBLICATION OF THE BOUND VOLUMES OF PROCEEDINGS IN GENERAL COMMITTEES

The Committee consisted of the following Members:

Chairs: †Mr David Crausby, Mark Pritchard

† Bradley, Karen *(Parliamentary Under-Secretary of State for the Home Department)*
Bruce, Fiona *(Congleton)* (Con)
† Burns, Conor *(Bournemouth West)* (Con)
† Burrowes, Mr David *(Enfield, Southgate)* (Con)
† Champion, Sarah *(Rotherham)* (Lab)
† Connarty, Michael *(Linlithgow and East Falkirk)* (Lab)
† Durkan, Mark *(Foyle)* (SDLP)
† Hanson, Mr David *(Delyn)* (Lab)
† Hinds, Damian *(East Hampshire)* (Con)
† Johnson, Diana *(Kingston upon Hull North)* (Lab)
† Johnson, Gareth *(Dartford)* (Con)
Kane, Mike *(Wythenshawe and Sale East)* (Lab)
† Lumley, Karen *(Redditch)* (Con)
Mactaggart, Fiona *(Slough)* (Lab)
† Nokes, Caroline *(Romsey and Southampton North)* (Con)
† Smith, Chloe *(Norwich North)* (Con)
† Stunell, Sir Andrew *(Hazel Grove)* (LD)
Teather, Sarah *(Brent Central)* (LD)
† Wilson, Phil *(Sedgefield)* (Lab)

Fergus Reid, Kate Emms, *Committee Clerks*

† attended the Committee

Witnesses

Alison Saunders, Director of Public Prosecutions

Ian Cruxton, Director of Organised Crime Command, National Crime Agency

Dr Charles Reed, Foreign Policy Adviser, Church of England (lead official on migration policy)

Cecilia Taylor-Camara, Head of the Bishops Conference Office for Migration Policy, Catholic Bishops for England and Wales

Lucy Maule, Senior Researcher, Centre for Social Justice (former specialist adviser to the Joint Committee on the draft Modern Slavery Bill)

Andrew Wallis, Chief Executive Officer, Unseen UK

Kate Roberts, Community Advocate, Kalayaan

Nadine Finch, Garden Court Chambers (barrister, expert and consultant in human trafficking and children's rights)

Peter Carter QC, Red Lion Chambers (barrister, specialising in prosecutions, former specialist adviser to the Joint Committee on the draft Modern Slavery Bill)

Public Bill Committee

Monday 21 July 2014

[Mr David Crausby *in the Chair*]

Modern Slavery Bill

3.30 pm

The Chair: Before we begin, I have a few preliminary announcements. First, please switch electronic devices to silent. Tea and coffee are not allowed during sittings.

Today, the Committee will be asked to consider the programme motion on the amendment paper, on which debate is limited to half an hour. We will then consider a motion to permit the Committee to deliberate in private in advance of the oral evidence session, followed by a motion to report written evidence. In view of the time available, I hope we can take those matters formally. Assuming agreement, we will then move into private session to agree questions. Witnesses and members of the public will then be invited back into the room and our oral evidence session will begin.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 3.30 pm on Monday 21 July) meet—

(a) at 9.25 am and 2.00 pm on Tuesday 2 September;

(b) at 11.30 am and 2.00 pm on Thursday 4 September;

(c) at 9.25 am and 2.00 pm on Tuesday 9 September;

(d) at 11.30 am and 2.00 pm on Thursday 11 September;

(e) at 9.25 am and 2.00 pm on Tuesday 14 October;

(2) the Committee shall hear oral evidence on Monday 21 July in accordance with the following Table—

TABLE

Time	*Witness*
Until not later than 4.00 pm	Alison Saunders, Director of Public Prosecutions; National Crime Agency
Until not later than 4.45 pm	Church of England; Catholic Bishops for England and Wales
Until not later than 5.30 pm	Centre for Social Justice; Kalayaan; Unseen UK
Until not later than 6.00 pm	Nadine Finch, Garden Court Chambers; Peter Carter QC, Red Lion Chambers

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 13; Schedule 1; Clauses 14 and 15; Schedule 2; Clauses 16 to 39; Schedule 3; Clauses 40 to 46; Schedule 4; Clauses 47 to 51; new Clauses; new Schedules; remaining proceedings on the Bill.

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 14 October. —*(Karen Bradley.)*

The Chair: The deadline for amendments to be considered in the Committee's two sittings on Tuesday 2 September is 4.30 pm on Thursday 28 August.

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—*(Karen Bradley.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Karen Bradley.)*

The Chair: Copies of written evidence received by the Committee will be made available in the Committee Room. We will now briefly go into private session to discuss lines of questioning.

3.32 pm

The Committee deliberated in private.

Examination of Witnesses

Alison Saunders and Ian Cruxton gave evidence.

3.35 pm

Q1 The Chair: We will now hear oral evidence from the Director of Public Prosecutions and from the National Crime Agency. Before calling the first hon. Member to ask a question, I remind all hon. Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed. For this session, we only have until 4 pm. Could the witnesses please introduce themselves for the record?

Alison Saunders: I am Alison Saunders, the Director of Public Prosecutions.

Ian Cruxton: I am Ian Cruxton, the director of the organised crime command for the National Crime Agency.

Q2 Diana Johnson (Kingston upon Hull North) (Lab): I want to start by referring back to the Joint Committee that looked at the original Bill and came up with a suggestion about the drafting of the offences. It talked about a hierarchy of offences that could be used when prosecuting. Ms Saunders, could you explain whether you think that that way of addressing the problem of modern slavery has any merit and why it was dismissed in the drafting of the Bill before us today?

Alison Saunders: One thing that we want to achieve is clarity around the law, the statutes and the offences, so that that is not just clear and easy to use for prosecutors but, in courts, clear and easy for both the judiciary and juries to understand. Our concern about the pre-legislative scrutiny Committee's suggestion of six offences that overlap in a hierarchy is that that would make it extremely complicated. I think its intention was that prosecutors would almost use all six and leave it to a jury to decide, in order of seriousness, which one they would pick. That would be very confusing for the jury. We find that when we use alternatives, as we do sometimes now in different scenarios, that makes it confusing. You often find that everyone leans automatically towards an easy conclusion, which often is at the lower end, and you get issues with different pleas to different things. It makes it, we think, extremely confusing. We much prefer the clarity of the offences in the Bill as drafted by the Government.

Q3 Diana Johnson: May I move on, then, to the way the clauses are drafted and, in particular, defining exploitation as a stand-alone offence? I am led to believe

that the drafting means that particular circumstances such as using children for begging, using children to get benefits or putting children on the street to steal would not be an offence, because of the exploitation linking with the trafficking. Can you explain that and say whether it is actually the case?

Alison Saunders: I think they probably would be covered; that is my view. In fact, the wording is quite wide underneath all three offences; I think deliberately so. It is about forcing people to perform the labour and forcing them to do things such as begging, so I think it probably would cover those scenarios. If it did not, there are already other offences that we can and do use for that in any event. I am not sure why it would be that they were not covered; sorry.

Q4 Diana Johnson: From some of the written evidence that we have seen, there seems to be confusion about the number of offences that are actually on the face of the Bill—whether it is two or three. My reading of it is that exploitation is linked with human trafficking, so if there is no way of showing that someone has been trafficked, you cannot then move on to show that there is exploitation. For instance, if a child is begging on the street and you cannot show that a trafficking offence has been committed, you will not be able to make an offence of exploitation stand up. Have I got that right?

Alison Saunders: Yes, but under clause 1, where you have slavery, servitude or forced labour, if somebody is forcing them to beg, you might say that that could be forced labour or compulsory labour, or you may be able to do it under some other common-law offences and statutes that we have. I agree with you—I had not quite understood the question—that clause 3 refers back to clause 2, so there would have to be trafficking for that to happen.

Q5 Diana Johnson: So those particular scenarios that I just mentioned would not be covered unless you could show that there had been trafficking?

Alison Saunders: Not under clause 2, but under clause 1.

Q6 Diana Johnson: Do you think you would be able to bring forward an offence under clause 1?

Alison Saunders: You might be able to. It is difficult to do it in isolation, because it depends on the circumstances. Clause 1 is not related to trafficking.

Q7 Diana Johnson: With situations such as illegal adoption and miracle babies, how would you be able to make a case against people who were involved in that form of trafficking exploitation?

Alison Saunders: As we do at the moment, because that relates to immigration offences. For the "parents" or people who bring the child in as their own, we prosecute those people now as offences under immigration laws, and we will continue to do so. In relation to the people who produce the babies, we have not yet had any cases where we have been able to prosecute in this country because they tend to be abroad.

Q8 Diana Johnson: Are you saying that the Bill would not cover those particular circumstances?

Alison Saunders: No, because the child has not been brought in to be exploited or for forced labour or slavery. It has been brought in to be their child.

Q9 Diana Johnson: Where does the United Nations convention on the rights of the child fit in with all this? If a child is brought into this country for an illegal adoption, there are surely issues about the child's rights that the Bill should deal with.

Alison Saunders: That is a slightly different scenario. We do prosecute those cases now, under immigration law, because they are bringing the child into this country unlawfully. What they are not doing—this is why it is not covered by the Bill—is bringing them in for forced labour or servitude, unless you can show circumstances where they are. But in the cases where we have prosecuted, they are not.

Q10 Diana Johnson: Why are there not separate offences in the Bill for children?

Alison Saunders: I did not draft the legislation—

Q11 Diana Johnson: Do you think there should be separate offences?

Alison Saunders: I do not think there should be. I think this legislation is clear. If you separated out offences into adults and children, it would make it more complicated because we know from the number of cases we prosecute that defining and identifying someone's age is often extremely difficult. We have certainly prosecuted cases where we thought the offenders or, indeed, the victims were children and they turned out to be adults, and vice versa. Also, if you have continuing offences where a number of offences are committed at certain times throughout the life of the offender, it would be quite difficult for us to identify and pin down the dates if there is a difference between a child and an adult. There is no reason why the legislation does not apply to both. The age would be an aggravating feature. There is absolutely no need for it to be separated out; that would make it more complicated and more difficult to prosecute some of these offences.

Q12 Diana Johnson: Why do we have specific sexual offences relating to children? I think we have separate offences because we recognise that sexual exploitation and abuse of children can be far worse. In the evidence given to the Joint Committee when it was looking at the draft Bill, Lord Judge referred to the need to recognise that the level of abuse a child undergoes if exploited may be worse in some circumstances. Do you have any sympathy with that view?

Alison Saunders: It is a slightly different thing that we are looking at in relation to sex offences. We do prosecute those. We sometimes have the same difficulties, but it is a slightly different way of identifying the offending. With this, we tend to have offending over a period of time. It is covered entirely by the legislation and there are aggravating circumstances which mean the sentences would be greater if it was shown to be a child rather than an adult. I am not sure there would need to be a separation of offences. I think it would make it more complicated and far more difficult to prosecute.

Q13 Mr David Burrowes (Enfield, Southgate) (Con): The aim is to ensure more successful prosecutions for modern slavery. You make the case that this would be more acceptable in relation to the jury, but what about before the case gets to court? There are issues in trying

[Mr David Burrowes]

to ensure there is a prosecution in the first place. How will consolidating these offences and the way they are shaped to the Bill support getting the cases to court?

Alison Saunders: The consolidation of the offences makes it easier for prosecutors to understand the legislation and pick the offences. For us, a lot of it is around the evidence that we get that makes it difficult to prosecute the offences. It is about identifying who a victim is, what the circumstances are and getting the evidence, whether it be in this country or from abroad, which makes them more difficult to prosecute. Consolidating the offences may make it easier for us to flag them, for example. The numbers of cases we prosecute at the moment under human trafficking legislation look very low. That is partly because we do not flag them. We do not identify them properly, so having a single set of offences would help. It may not necessarily help the numbers, but it helps the identification and helps to give a true reflection of what is going on.

Ian Cruxton: Certainly in respect of the issues about acquiring the best evidence in these cases, it is difficult. Some victims do not accept that they have been exploited. Some are very vulnerable and would not necessarily acknowledge that fact. On occasions, they assess the very person who has exploited them to be a friend, supporting influence or somebody who may have taken them away from a difficult scenario elsewhere—potentially into another scenario that we would all acknowledge involved exploitation. There is a challenge of how we work with the victims to extract that information in a way that stands up to scrutiny in the courts and does not damage the victim further than they already have been.

Q14 Mr Burrowes: What do you think will be the impact of a sentence of life imprisonment on prosecutions and on efforts to prevent and eradicate modern slavery?

Alison Saunders: I do not think that the sentence will particularly impact on the number of prosecutions because the sentence will be a matter for the court to impose. If the evidence is there, we will prosecute, no matter what that sentence is.

Ian Cruxton: From a law enforcement perspective, in similar cases where we have seen a move towards a life sentence, we have not seen a discernible difference in behaviour patterns. That is not something that we have automatically seen. However, it is acknowledged that there is a greater consequence from being caught so, on occasions, we see people who may work harder to evade knowledge and attention.

The Chair: I know it is a large room, but could the witnesses speak up a little?

Q15 Mr Hanson: May I ask questions on two issues? First, Mr Cruxton, clause 13(3), which is about the enforcement powers in relation to ships, states:

"The authority of the Secretary of State is required before an enforcement officer may exercise Schedule 1 powers".

Could you give an indication of how the relationship between the Secretary of State and the enforcement officer on the ground is going to work in practice?

Ian Cruxton: I will have to come back to you with a written update about how the specifics will work. Obviously, we see the move towards us being able to intervene on the high seas as an important part of the Bill, but I do not have access to the information on the specifics of how that will work and the interaction with the Secretary of State.

Q16 Mr Hanson: If the witness could formally submit a note, that would be helpful, because, at the moment, the Secretary of State's authority is required before a ship in domestic or international waters can be examined for slavery or trafficking purposes. That may be bureaucracy or it may be a formality but I am interested in how that happens between a Secretary of State on a Saturday night at midnight and a ship in the channel or, potentially, off the African coast or in the Mediterranean, and how that is dealt with and the powers that you have. I would welcome some detailed information about that because it is important.

My second question is to both witnesses and relates to clause 23, which is about the slavery and trafficking risk orders. There is a power in the Bill to give, via the magistrates court, a chief officer of police, an immigration officer, or the director general of the National Crime Agency the power to apply for an order if that officer thinks that

"there is a risk that the defendant will commit a slavery or human trafficking offence",

and that the order is necessary to protect persons generally. I am interested in what both the Crown Prosecution Service and the National Crime Agency think is the remit of not having evidence to prosecute, but having sufficient evidence to apply for an order. As I see it, there is no particular definition yet in the Bill of what that risk might be.

Alison Saunders: There are other examples of orders that can be taken as a sort of preventive method and, obviously, it is far better to prevent than to wait until an offence has been committed and then to prosecute. I rather anticipated that this was going to be for those scenarios where there was not sufficient evidence to prosecute. It was possibly for just before—or it should be before—an offence had been committed. The risk was there, the evidence or intelligence was there and therefore you could get an order to stop the offence being committed. It is similar to antisocial behaviour orders or forced marriage prevention orders and that is how I envisage that working. We would not be involved at that stage because there was not an offence to prosecute.

Ian Cruxton: We envisage that that would be utilised where there may be a particularly vulnerable victim who may not be in a position to have any form of corroborative information that would substantiate a prosecution, but where they may be incapable of sustaining the kind of pressure that might come from having to actually make a formal complaint in those circumstances—so where we think that there would be sufficient information in front of us for us to apply through the civil route for an order of this kind against an individual.

The only other thing to mention on this is that we were initially slightly circumspect about the introduction of these orders as we have serious crime prevention orders as part of the armoury of tools available for tackling serious and organised crime. However, those

orders only relate to organised crime groups so there have to be two or more individuals for that piece of legislation to be brought to bear. This order can be brought in those cases, particularly those cases around things like servitude, where there may be only a single perpetrator.

Mr Hanson: I support the general principle of that, but I am interested in what those circumstances would be because the challenge to that order in the magistrates court would be very specific. Perhaps you could think about submitting evidence about that because it is an area we will want to test in Committee.

Q17 Sir Andrew Stunell (Hazel Grove) (LD): The Joint Committee took a lot of evidence that suggested that there were gaps in the way that the existing offences were built up, and that prosecutions were often not proceeded with on that basis. You have suggested that what we have here is a recategorisation; cases would be more clearly identified, but there would not necessarily be more of them. Do you think more cases are desirable? The cases are slipping through so what needs to be done to ensure those are trapped?

Alison Saunders: I do not think that cases are slipping through because the legislation is not there to prosecute; I think cases may not be brought before the courts because we have not got the evidence and we have not got the complaints in the first instance. I think this will help because it makes it much clearer what the law is and consolidates it so it is easier for prosecutors to identify the legislation that they should be prosecuting under and flagging it. At the moment we have a number of cases where—we know the numbers of cases under trafficking law have gone up since its introduction—not everything is flagged that should be and we also know that we prosecute under different legislation. So we might prosecute under an assault offence, offence against a person, or we might prosecute under sexual offences depending on the circumstances of the case. I am not sure that that would necessarily change; it may do. I do think this will make it easier for everyone to know when we are prosecuting trafficking or exploitation offences. It makes it much clearer and easier for prosecutors, investigators and the courts to understand.

Q18 Sir Andrew Stunell: Are you satisfied that there are no gaps?

Alison Saunders: Yes, because I think the gaps are in relation to these incredibly difficult cases to bring forward. It is often very difficult to get victims to come forward. It is difficult when we have people who, even though we may think they are offenders, are victims, to get them to tell us that they are victims and give evidence about their traffickers or those who have exploited them. It is around being able to give us as many investigative tools as possible, so that we can get the evidence to bring before the courts. I think that this legislation makes it clearer and easier to put evidence before the courts.

Q19 Sarah Champion (Rotherham) (Lab): I have two questions. There is a 45-day period of reflection for victims, though obviously it can take months or years to charge and come to court. What measures are in the Bill to compel the witnesses to stay in the UK?

Alison Saunders: There is nothing in the Bill.

Q20 Sarah Champion: Should there be?

Alison Saunders: We do work with victims to ensure that they have the ability to stay in this country if they want to. Victims leave the country in all sorts of cases. Again, it is about staying in contact with them and ensuring that we have the ability either to bring them back to the country or to have a video link. It may be right that they go back to wherever they want to and that we support them to give evidence via a video link or something like that, if that is the best way for them to do so. It would be difficult to put a provision in. I would be wary about a provision that said that they had to remain in this country.

Q21 Sarah Champion: My second question is that I welcome the presumption of age in the Bill, but should there be a definition of what a child actually is? It seems unclear if the age is 16 or 18.

Alison Saunders: The legal definition is 18 and under. That is what we use in all legislation and for whether it goes into the youth court or adult court. I think that would be clear enough.

The Chair: This will probably be the last question, but we never know.

Q22 Gareth Johnson (Dartford) (Con): May I ask a question of Mr Cruxton? It seems to me that one of the challenges for the National Crime Agency is going to be on the detection of crimes and the education of the law enforcement officers. What is your role in ensuring that there is maximum understanding of the powers that this Bill will give to law enforcement officers, to police, to ensure maximum detection of offences?

Ian Cruxton: First and foremost, it is important to understand the context that the National Crime Agency operates in. It has the responsibility in law for leading an efficient and effective response to serious and organised crime. The highest priorities, within the highest priority category, are those offences that relate to both human trafficking and modern slavery. We are already focusing our resources on that. Part of that infrastructure involves a number of multi-agency threat groups, one of which again focuses specifically on the challenges around organised immigration crime, modern slavery and human trafficking.

Within that there is a multi-stranded approach, including pursue elements, looking first and foremost at whether we can identify, arrest and prosecute offenders. There are other elements whereby we ensure that there is a full education process going out to law enforcement partners and other Government agencies. The section in which the UK Human Trafficking Centre sits within the organised crime command in the NCA also provides a tactical adviser service to the UK in respect of understanding whether they are identifying people who are potential victims of trafficking, and how to deal with those and get them into the national referral mechanism.

The Chair: Michael Connarty: 45 seconds for question and answer.

Q23 Michael Connarty (Linlithgow and East Falkirk) (Lab): The fact is that all we have done is pull together all the offences that already exist in other Acts. Quite

[Michael Connarty]

frankly, the record so far has been pretty abysmal in terms of prosecutions. What will be different under this Bill?

Alison Saunders: I believe that this Bill, because it does bring that together, makes it clearer, so you should see more prosecutions under this legislation. We have seen an increase in trafficking offences across the years since we have had legislation, but as I said it is not as much as we would like. A lot of action has been taken between both prosecution and law enforcement to look at how we increase the numbers. The Bill will encourage prosecutors to prosecute under these offences. We know that we prosecute under different offences that are not recorded as trafficking.

The Chair: Order. I am afraid that brings us to the end of the time allotted for the Committee to ask questions. I thank the witnesses on behalf of the Committee for their evidence.

Examination of Witnesses

Dr Charles Reed and Mrs Cecilia Taylor-Camara gave evidence.

4.1 pm

Q24 The Chair: For this session we have until 4.45 pm. Will the witnesses please introduce themselves for the record?

Cecilia Taylor-Camara: I am Cecilia Taylor-Camara, senior policy adviser to the Catholic Bishops Conference of England and Wales.

The Chair: I ask the witnesses to speak up a little. This is rather a large room and the sound is not brilliant, so please shout if necessary.

Dr Reed: I am Charles Reed, international policy adviser for the Church of England.

Q25 Michael Connarty: The Bill as drafted does not contain any measure on corporate supply chains. Should it contain a measure on corporate supply chains? Will you say why, and what it should be?

Cecilia Taylor-Camara: Mindful of the growing knowledge and recognition of the potential for modern day slavery in companies and global operations and their supply chains, we believe that the Bill should clearly have a measure on corporate supply chains so that it gives consumers the choice and the opportunity to make informed choices of what they buy. If we look along the lines of what has been happening in parishes across England and Wales, there has been a massive campaign for Fairtrade goods. We believe that we can promote slave-free products and services in our parishes across England and Wales. Currently, the United States bishops conference is working to support legislation. It would be very easy for us to use our international networks to galvanise support for any Bill of that nature, so that consumers are clear that the products and services they purchase are slave free.

Dr Reed: I want to support that. I would go further and say that we are not going to be able to combat human trafficking and the wider evil unless we tackle the issue in our own business supply chains. There is much in the Bill that we like and want to recommend but unless we have a provision that can target the business supply chains, it will fall short of the ambitions that Parliament has in this particular area. It would be more than easy for a simple change to the Companies Act 2006 to take the matter on.

Q26 Michael Connarty: May I follow up? You said, Dr Reed, that it would be enough. There has been quite a bit of evidence, from Luis CdeBaca, the US ambassador at large on human trafficking, for example, and others, that it requires something much stronger—something like the California Act. That is quite clearly a mandatory imposition on companies to audit and report on their supply chains. Others argue that the Companies Act is too weak, and that it is only for quoted companies, so the measure will not get the attention it requires if we put it into the Companies Act. How do you feel? It should be mandatory, but should it be stronger than just the Companies Act?

Dr Reed: We need to take an incremental approach. We need to set out in principle the reason why tackling business supply chains is so important. I think a light-touch regulatory approach, to begin with, would be a radical thing to achieve and would lay the basis for further amendments at a later point. I should think that there is much to commend the California Act, but it is a quite complicated Act—the Joint Committee acknowledged that in its report.

Also, the Home Secretary would I think acknowledge that changes already made to the Companies Act last year were intended to cover business supply chains; so all a further measure would do is conserve that within the provisions of the Bill.

Michael Connarty: Do you want to respond to the same question?

Cecilia Taylor-Camara: The example I have here is the Business Supply Chain Transparency on Trafficking and Slavery Act of 2014, the United States Act. The Act requires

"companies with annual worldwide gross receipts exceeding one hundred million dollars"

to put in an annual report to the Securities and Exchange Commission any efforts they are making to address forced labour, child labour, human trafficking and modern-day slavery in their supply chains. Also, information would be made available to the public on the internet in an easily searchable format.

If enough companies advertise on their websites that they are free from slave and child labour, that could influence any individual going into, let us say, a supermarket or anywhere with electrical products. In the fashion industry people would be able to make clear, informed decisions as to what to spend money on.

Q27 Phil Wilson (Sedgefield) (Lab): I want to ask both witnesses a couple of questions on the anti-slavery commissioner. The functions of the proposed commissioner are restricted to galvanising law enforcement and identifying victims. Should the commissioner also have responsibility for victim support, do you think?

Cecilia Taylor-Camara: I think the commissioner should also be responsible for victim support. It gives a holistic approach to the entire initiative, so that the

commissioner is not only concerned with law enforcement and working with the parties—victim support is actually at the centre of that work.

We have a Home Secretary who is interested in the Bill, currently—she has put a lot of energy in and she is passionate about the Bill; but what if we do not have one who is really interested? Where would that lead us? It will be helpful if the role of the commissioner is independent of Government, and if victim support is at the centre of the commissioner's functions.

Dr Reed: I would merely add to that, that various representatives from the police, whom we actually work with, always make the case that combating human trafficking and modern-day slavery requires more than a law and order approach; it is very much about providing support to victims and ensuring that they can come forward to give evidence. So trying to include within the remit a role which actually enables that commissioner to look at the rights of the victim, and ensure the widest possible partnership across the board, would, I think, make a hugely important addition to the Bill.

Q28 Phil Wilson: Do you think the commissioner's role is sufficiently independent from Government, as laid down in the Bill?

Dr Reed: That is actually something that this Committee will have to come to a mind on. From the Church of England's perspective we are quite interested in the model which is presented by the Children's Commissioner and whether it might be an alternative approach that the Bill can take on. At the end of the day, I feel that what we want is for the commissioner to have a champion within Whitehall—a Department where it is actually backed and properly owned, but without necessarily being tied to that Department in terms of its remit. The remit of the commissioner must be broad to enable them to launch inquiries if they think it necessary, without being curtailed by the Home Secretary.

Cecilia Taylor-Camara: On the functions of the commissioner, we recommend that the current wording in clause 35(2) should be changed from "may" to "must" in this sentence:

"The things that the Commissioner may do in pursuance of subsection (1)".

I believe that changing the word "may" to "must" would make it mandatory that the commissioner performs those functions.

Q29 Chloe Smith (Norwich North) (Con): I thank our witnesses for coming along today. May I pick up on the point you just made? Clause 35(2)(f) states that the commissioner may co-operate with or work

"jointly with other persons, in the United Kingdom or elsewhere."

May I take your views on the extent to which the Bill promotes the right level of work across Government? Domestically, what do the commissioner, the Secretary of State and the relevant authorities need to do to work together inside the British Government, and what do they need to do in relation to the "elsewhere" part? You both have extensive international experience. What does Britain need to do to co-operate internationally to make this kind of work a reality?

Cecilia Taylor-Camara: Our approach is through the Catholic Bishops Conference of England and Wales. For example, in June, Detective Kevin Hyland—now retired—and I went to Lithuania to speak to the Lithuanian Parliament about the model of co-operation that has developed between the Catholic Bishops Conference and the metropolitan police services. At the end of the presentation, there was a little group just outside the Parliament already discussing the issue, which gave an undertaking that somebody was to be assigned to do the drafting on how the Church can collaborate with law enforcement. Those small models can be replicated around the world.

Similarly, after our conference in Rome on combating human trafficking, which brought together law enforcement agencies from about 26 countries and bishops from about 17 countries, the United States bishops conference was approached by law enforcement to see how they can work together. If law enforcement and the Church can work together, I am sure those models can be replicated in other parts of the world, and I am sure many Governments will benefit from sharing examples of good practice in combating human trafficking.

Q30 Chloe Smith: May I press you on the domestic nature of the issue? Clause 42 states:

"The Secretary of State must issue guidance to such public authorities"

in order to do the three things set out in the clause. What do you think is the domestic requirement there? What authorities need to be involved?

Cecilia Taylor-Camara: The intergovernmental Departments must come together and have training opportunities together so we are all singing from the same hymn sheet. We must understand the issues and build scenarios about what traffickers might be planning for the future. Just as law enforcement is putting this Bill together, people in the trafficking world are looking at and scrutinising everything, as you yourselves are doing, so they can counter some of the provisions that are being made. Really, we need to be working several steps ahead of the traffickers to ensure the legislation works for the United Kingdom and becomes a template for other people—for example, those in the Commonwealth.

Q31 Chloe Smith: When we are outside this room, it would be helpful if you could tell us whether you have a sense of what steps we should be looking at right now.

Dr Reed: In terms of the international context, I want to draw your attention to two areas. First, we need to look at the complexity of the business supply chains, which are not national or even European, but international and global. Therefore, we need to look at this problem in a global context.

Secondly, we need to look at what is driving this trend. That means looking at the causes of poverty and the unrealistic aspirations that some people have in terms of quality of life here in the UK and how that human desire for a better life is played on in an unfortunate way. I think that looking at just those two areas would need the commissioners to work in partnership with the Department for International Development and the Department for Business, Innovation and Skills. That is why it is important for the commissioner to be based in a Department, but the remit needs to be much wider.

Q32 Sarah Champion: I have two questions on identification and support for victims. Does clause 41, on advocates, make adequate provision for the representation and support of child victims of trafficking?

Dr Reed: That is not an area on which I feel competent to comment, but I am happy to talk to colleagues and provide a note if that would be helpful.

Cecilia Taylor-Camara: I think that the provision in clause 41(1) must be mandatory on the Secretary of State. It says:

"The Secretary of State may make arrangements to enable persons—'child trafficking advocates'—to be available"

but we may recommend a change in the wording from "may" to "must", so that they are available for every child.

Q33 Sarah Champion: Should the Bill put the national referral mechanism on a statutory footing?

Cecilia Taylor-Camara: That is an area that I am not terribly versed in.

Dr Reed: That is an area that we would like to see put on a statutory basis. At the moment the NRM is very much an internal process of the Home Office with no real transparency or appeal mechanism, and putting it on a statutory footing would give it better authority to support the victims. I am aware, however, that the NRM is under review and it would be interesting to know when the interim report will be out and how that will be fed into the Committee's deliberations.

Q34 The Parliamentary Under-Secretary of State for the Home Department (Karen Bradley): Thank you for attending. I want to look at two areas: one is UK focused and one is cross-border. You referred to other commissioners—we have the Children's Commissioner and the Victims' Commissioner—but how do you envisage an anti-slavery commissioner interacting with the existing commissioners to ensure that the existing support is passed out to the victims as needed?

Cecilia Taylor-Camara: The roles can be complementary, especially when it comes to handling children, so that there is no duplication of resources and effort. It is, however, important that the anti-slavery commissioner is given that mandate, independent of government, to provide what support he or she deems appropriate to serve the best interests of the children.

Q35 Karen Bradley: How do you see that working with the Victims' Commissioner and Children's Commissioner? Obviously we do not want to duplicate and recreate the roles of the existing commissioners, but we must ensure that the victims are supported.

Cecilia Taylor-Camara: Because human trafficking is so fluid and continues to manifest itself in different ways, areas might come up in which the other commissioners might not be able to be hands-on, whereas the anti-slavery commissioner will be particularly focused on those issues as they come up. We are very clear how sometimes Departments can be in competition for resources, so it is important that the anti-slavery commissioner is empowered to handle the areas that fall within their remit, whether there is an overlap or not. I am acutely aware that there may be overlaps; however, mindful of the changing nature of human trafficking, the anti-slavery commissioner really should be empowered and given all the support so that there is no overlap.

Karen Bradley: Do you have any views on that, Dr Reed?

Dr Reed: Not more than that, no.

Q36 Karen Bradley: On the international side of things, there have been several discussions on the transparency of supply chains, about which we legislated to ensure that human rights are respected within supply chains, and since October last year all companies have to report on that. What else do you think needs to be done from a legislative perspective, and how much can be done through working with businesses? Linked to that, how much can both Churches help businesses to identify forced labour within the supply chain, and also help to identify victims before they are trafficked into the UK, particularly as both of you have international networks?

Cecilia Taylor-Camara: One of the areas that we are working in is to provide information and materials for our Catholic networks around the world. In 2012, the bishops recommended designating a day of prayer to remember victims of human trafficking, and survivors and those who work with them. That is an effort to raise awareness globally. Last year, in 2013, the Catholic Bishops Conference celebrated the day of prayer and we distributed information and materials within the UK.

This year, 2014, we went further afield to distribute materials to all the Catholic bishops, particularly in Africa where they might have challenges in developing materials. The United States bishops conference also adopted the day of prayer in an effort to raise awareness, so in raising awareness of the realities of human trafficking, we are making people aware even before they are trafficked. The information will set out the indicators and what you need to look for. Also, the parishes and parish priests can initiate the discussion on what it means to travel overseas so that people can make an informed choice and be very clear what they are heading for.

In the prelude to the Olympics, we made it very clear that the Olympics was approaching and there was a possibility that people might be genuinely recruited for services overseas, or at least they would believe they were being genuinely recruited. But that might not be the reality, so people were encouraged to be aware when they were approached and given offers of job opportunities overseas, and bishops conferences across the world discussed among themselves how to take this agenda forward.

We approached the Episcopal Conference of Catholic Bishops in the European Union to share our experiences of working in human trafficking to highlight some of the areas that we thought they needed to be aware of, and we have had invitations from individual bishops conferences so that this information can be shared. If we can work within the Church and make people aware, I am sure we can work with companies from some of those countries and work across borders.

Dr Reed: We are certainly doing exactly the same type of work in terms of raising awareness within our own Church at a parish level. We are also trying to identify the tell-tale signs and seeing how that is then referred to the appropriate people. We are looking at providing pastoral support to victims as well and ensuring that their own dignity is restored. We are also looking at using the Church's networks on a European and international basis to ensure that when people are returned home, there is somebody waiting for them at the airport

to ensure that they can be properly reintegrated back into their community. We cannot just feed the actual machine; we need to find a way to break the cycle itself.

We also need to recognise that, as a Church, we are also a corporation; we have investments and our own business supply chains. We need to ensure that our own business supply chains come free of trafficking. That is going to be a long and drawn-out process. As I think the Bishop of Derby would acknowledge, we ought to celebrate each time we find that, and say that it is a positive thing that we have come across, and then actually move on.

That is why I think it is not just a voluntary approach. That is important, but there is a need to ensure that there is a level playing field for all corporations and businesses. That is why I think a small change—maybe including five words within the Companies Act to ensure that, when you are referring to human rights, you are also referring to business supply chains—would have a transformative effect here in the UK. It would also have a catalytic effect internationally, more so on those countries that have a common-law approach and their own Companies Act. That, in itself, would be one of the major benefits of the Bill as a whole.

The simplification and codification of the law are important, but we need to go beyond that; we need to be more ambitious. Tackling the business supply chains through a simple change to the Companies Act would be a wonderful achievement. It is something that businesses—certainly those we have been talking to—would actively want to see. As you know, there is a political narrative saying that we need to cut regulation and so on, but I think this is an area where businesses would very much welcome an intervention by Parliament. That is because, at the end of the day, no director wants to be complicit in a practice like this.

Q37 Diana Johnson: May I ask whether you are at all concerned about the fact that the definition of human trafficking in the Bill is not compliant with the definitions of the EU and the International Labour Organisation, in terms of the international perspective that you are both obviously aware of? The question is about the terms that are used, which are not the same as what other EU states would be looking at when referring to human trafficking offences. We recognise that the problem is worldwide, so it is about getting some consistency. Do you have anything to say on that?

Cecilia Taylor-Camara: The definition with which I am familiar—the UN definition—is all-encompassing. If that becomes a template, it should be easier to enforce, as opposed to differences in definition. That is my view on the definition.

Dr Reed: The EU directive can be interpreted in a number of ways. I will just have to see how that materialises over the coming years, and see whether that introduces an unfortunate degree of ambiguity. My hope is that the Bill that Parliament passes would set the standard for other European countries. As far as I can see, it is pretty consistent with the convention and the EU directive.

Q38 Diana Johnson: May I ask Cecilia the question that my colleague asked earlier about child advocates? Can you say something about your understanding of child guardians? A lot of people think that a child guardian would be able to act in the best interests of a child, which is different from a child advocate, who acts on the instructions of their client, the child. Can you say whether you think that is an issue?

Cecilia Taylor-Camara: One of the cases that comes to mind was very high-profile, where a child was brought into this country to be looked after and supported by a guardian, but actually she was enslaved and died. It was a case in Haringey. That is one of the reasons why I would advocate for a child advocate, who is independent. In some of the examples that we are aware of, the children in care continue to have contact with the guardian, and sometimes they disappear.

Q39 Diana Johnson: May I interrupt? I am referring to the legal definition of guardian. I understand what you are saying about that particular case involving a guardian, but what I am trying to get at is the legal definition used by local authorities currently of a child guardian who can act in the best interests of a child. A child advocate is slightly different because they act on instruction of the child. I am trying to tease out, under clause 41, whether you feel that having a child advocate is sufficient for children who have been trafficked, or whether you think a guardian might be a better way forward.

Cecilia Taylor-Camara: The advocate is good, but it should be extended. So for children—not only those in slavery or servitude but those exploited and subjected to forced or compulsory labour—there should be an extension of the remit of the child advocate. What I would actually support is the child advocate.

Q40 Diana Johnson: May I ask about the victims' defence, under clause 39? I wondered what your views were about schedule 3, which lists all the offences where the statutory defence would not apply. The Bill is about offering support and protection to victims. What do you feel about clause 39 and schedule 3?

Dr Reed: I have to admit that that is not an area that I feel competent to comment on, but I am happy to provide you with a note after I have talked to relevant colleagues.

Cecilia Taylor-Camara: At this stage, maybe not. I do not want to venture an opinion on that, because I am not particularly clear what needs to be done in that area.

Q41 Diana Johnson: Do you feel that there should be specific offences in the Bill relating to children?

Cecilia Taylor-Camara: Given the vulnerability of children, there ought to be distinct provisions in the Bill concerning child victims of modern slavery. That is the view that I hold. The Bill might be an opportunity to examine how UK adoption laws could be tightened and made child slavery-free.

Dr Reed: I think that in an ideal world, yes, we would like to see changes made. However, I think that we are also realistic about what can be achieved in legislation. We are also conscious of the fact that there is a danger of turning the Bill into a bit of a Christmas tree, and of the cross-party consensus that has been built up on this beginning to fray around the edges. That is where we come back to the importance of getting the role and remit of the commissioner right as far as possible. If

you get the role and the remit right, other public good will emerge from that. In that sense, we would like to see the Committee and Parliament giving more attention to the ways in which the commissioner can be made truly independent and also given the powers to cast a spotlight on areas such as children and bring forward recommendations at a later point.

Diana Johnson: May I say that the cross-party joint Committee took the view that the Bill should contain offences specifically to do with children? There was cross-party agreement on that. My colleague here was on the Committee, so I am sure that he could speak to that.

Q42 Michael Connarty: I wanted to make a remark on maintaining consensus. Sir Andrew and I sat on the Committee, and what was drafted, in fact, was all of those offences. After quite learned submissions from Peter Carter QC, who we will hear from later, and from Lord Judge, it was quite clear that they both thought that the offence against children was much stronger and should be marked out as a specific offence with, probably, a higher tariff. That was in the joint submission, about which there was consensus across the House and across the parties. That has been broken by the Government, not by the joint Committee.

Can I ask a broader question? Aspirationals and devotional, faith-based organisations such as your own are talking about compromises. It has been said a number of times in the debate—I have said it a certain number of times—that if we want to carry on the work of Wilberforce, we must have the strongest international element to the Bill. Do you think that it chimes with the aspirations of faith-based organisations to talk compromises, when maybe you should in fact be setting heights for us to reach?

Dr Reed: We want the Bill to be as ambitious as possible, but we are also conscious of the parliamentary timetable and the dangers of the Bill collapsing under the weight of numerous amendments. That is why, from our perspective, we want to prioritise one or two areas. The first area in which we would love to see further ambition enshrined in the Bill is business supply chains, because we think that will have a catalytic effect not only here in the UK but across business supply chains around the world. We think it will also lead other countries to look at their own company Acts to see what further amendments need to be made.

We have been talking to other faith communities about this. We have also been talking to a firm of lawyers about how, if the Companies Act were amended, we might be able to identify 20 to 30 other countries where similar changes to companies Acts might also be possible. I think this is one area where Churches and faith communities, not only here in the UK but around the world, would be willing to mobilise in a way that has not been seen for a number of years. Again, it is a matter of prioritisation. This is one glaring omission in the Bill, and it has to be corrected.

Q43 Mr Hanson: When considering the Bill, the Joint Committee made some suggestions about revisiting the issue of the overseas domestic worker visa, which was changed by the Government two years ago. Do you have any view on the change or whether the Bill should revisit some of those issues?

Cecilia Taylor-Camara: I think the Bill should revisit the issue of domestic workers. A large number of people from different parts of the world, particularly developing countries, apply to work in homes, and when they arrive in the UK, some of them are treated like slaves. It is important that that issue is addressed in the Bill. We know what domestic workers contribute to the economy. A country such as the Philippines gives pre-departure orientation to workers, so they are very clear what to expect. If situations like that change, it is only right that they are protected. They are brought under the guise of working in a home, and then they are enslaved, which clearly amounts to human trafficking, which is an area that needs to be addressed.

Dr Reed: I was intrigued to read that on Second Reading in the Commons, one or two MPs made reference to the work of an NGO that indicated that since the visas were changed, 60% of those on the new domestic worker visa were paid no salary at all, compared with, say, 14% on the original visa. As you know, the sample for that survey was quite small, but it seemed to indicate that there is a case that needs to be looked at again.

Q44 Mr Hanson: Some of us have received representations—maybe all of us have; I do not know, but I certainly have—about the potential for the Bill to consider the extension of the gangmaster legislation to other areas, particularly hospitality, tourism, catering or construction. Do you have any views on that potential extension?

Cecilia Taylor-Camara: The labour market is full of areas where we have seen immense abuse and trafficking in this country. It is such a hidden crime that we may not ever know the realistic figures on the number of people brought into this country who are then enslaved in the labour market. Clearly, that area needs to be looked at, and extended in particular to the hospitality industry. Sometimes you go to the bathroom in a restaurant and see very young girls working at about 2 in the morning. I am wondering, "What are you doing at work at this age?" I have wondered sometimes how you bring them to justice—what questions do you ask? That is clearly an area in which the law must provide protection for those people, especially those who are under age.

The Chair: There are no further questions from Members, so I thank the witnesses for their evidence. We will move on to the next panel.

Examination of Witnesses

Lucy Maule, Andrew Wallis and Kate Roberts gave evidence

4.41 pm

Q45 The Chair: We have until 5.30 pm to hear from this set of witnesses. Before I call Members to ask questions, will the witnesses please introduce themselves?

Lucy Maule: I am Lucy Maule, senior researcher at the Centre for Social Justice and author of the CSJ report, "It Happens Here".

Kate Roberts: I am Kate Roberts, a community advocate at the charity Kalayaan, which works with migrant domestic workers in the UK.

Andrew Wallis: I am Andrew Wallis, CEO of Unseen UK. I chaired the working report for the CSJ.

Q46 Mr Hanson: If I may, I would like to focus my question on Kate. The Joint Committee considered the question of overseas domestic workers and made recommendations about the reintroduction of some mechanism to examine how we can improve the situation for them, based on the changes made two years ago. What is your view on the effect of those changes? Are there any recommendations that the Committee should examine to improve the situation?

Kate Roberts: In my view, based on what I have seen through working directly with migrant domestic workers at Kalayaan, the changes that were introduced in April 2012 tying domestic workers to their employers have been disastrous in terms of the treatment of those workers. They have definitely resulted in an increase in the exploitation and abuse of those workers.

On a practical level for Kalayaan, they have resulted in us being able to do far less to help people who have been badly exploited, including trafficked. Prior to this evidence session, I was speaking to my colleagues and gave the example of a woman who came to Kalayaan a number of weeks ago. She was distraught and had recently left very exploitative working conditions—I think she was paid about £26 a week, working long hours with no freedom. She did not have her documents and she had no money. We identified her as trafficked and talked to her about her options, including the national referral mechanism. After a day of us talking to her about what ways we could support her according to the law, she told us that she did not want help, and we understand that she was actually returning to her traffickers.

In my view, the preventing of domestic workers from changing employer has not only affected what happens to them after they escape, in terms of them being unable to access justice in this country because once they leave, they are in breach of the immigration laws and are destitute; it has resulted in a message to exploitative employers that they can control the worker and really treat them how they like, because there is no recourse to justice.

Q47 Mr Hanson: What is your assessment of how many people are affected by the current regulation change? What is the potential for the regulation change to increase some of the challenges they face? You have mentioned poor levels of pay, but are there other things that potentially affect domestic workers?

Kate Roberts: When domestic workers first come to Kalayaan, we ask them about the employment they recently left, or from which they recently escaped. It is clear that domestic workers who are tied to their employers are more likely to report having been physically abused or not being allowed out of the house. Almost three quarters of those on the tied visa report never being allowed out of the house in which they lived and worked—never being allowed out unsupervised—compared with less than half of those on the original visa. They report having no space of their own and not having their own room. They either share a room with a child, often sleeping on the floor, or sleep in the lounge or kitchen. They report never having any privacy, not having their passport, working incredibly long hours and being on call to work any time at all. Many report psychological abuse. There are significantly more reports of abuse against those on the tied visa than against those on the original visa who entered prior to being tied to their employer.

Q48 Mr Hanson: Do you have any indication of the number of such individuals?

Kate Roberts: One of the questions we ask is about hours worked. Some 53% of those on the tied visa reported working more than 16 hours a day, compared with 32% of those on the original visa. Sixty per cent. of those on the tied visa reported being paid less than £50 a week, compared with 36% on the original visa. Those figures are taken from people we have seen in the two years since the tied visa was introduced. I am not talking about referrals to the NRM, because obviously we can only do that with an individual's consent—we are a first responder, but they have to consent. Our internal assessment is that tied individuals who come to us are twice as likely to be trafficked as those who are not tied—it is 69% versus 26%.

Q49 Mr Hanson: What would you say about that?

Kate Roberts: In our view, the tied visa, as it is, seriously undermines the intentions of the Bill. For the Government to carry out their commitment to be a world leader against slavery and to produce a world-class Bill, it is important to reverse the changes that were introduced in 2012, primarily by restoring the right of domestic workers to change employer.

Q50 Mr Hanson: The 2012 regulations were regulations. They were not primary legislation.

Kate Roberts: No, they were in the immigration rules.

Q51 Mr Hanson: Do you see a role for the Bill in overturning those issues?

Kate Roberts: Yes. It has been shown time and again that domestic workers are a particularly vulnerable group, and if the Government are concerned about domestic servitude, they would do well to ensure the protection of domestic workers in the Bill, possibly in the form of an amendment. Principally, domestic workers need to be able to change employer and, if they are in full-time employment, they need to be able to renew their visa. They need to be recognised as workers with access to UK employment law. Bearing in mind how vulnerable they are, even with those rights we would like to see the right to settlement reinstated because otherwise domestic workers, as soon as they become pregnant or sick, are liable to be sacked.

Q52 Chloe Smith: On that point, what is your view of the defence set out elsewhere in the Bill? It strikes me that that defence may be possible for a person leaving tied employment in this scenario. If they did so and stayed in the UK, they would be committing a crime under immigration law. Is it your view that the defence would help that individual? I am referring to the defence dealt with in part 4 of the Bill.

Kate Roberts: No. The Bill as it stands does not protect domestic workers. It looks at people who have been enslaved. The original protections, which were

recognised internationally as good practice for domestic workers—they were introduced in 1998 and included in the immigration rules in 2002 in recognition of the vulnerability of domestic workers—prevented the worst of the exploitation to a large extent. It would be far better to prevent people becoming enslaved than to attempt to deal with them once they have been enslaved, exploited or trafficked.

We are also concerned that the defence within the Bill would not protect the majority of domestic workers because they will be too fearful to come forward, having been told by their employers that they are breaching the immigration laws when they leave. They are very controlled, isolated and dependent on their employers for information. I recently had a client at Kalayaan who was identified through the NRM as trafficked at the reasonable grounds stage. She escaped her employers. She then called the police, who accompanied her to the employers' apartment, got her passport back and washed their hands of her. She doesn't have a contact number for them. The point is that a lot of people will fall through the net and these protections will not apply to them. Without preventive protections, allowing someone to change their employer and renew their visa, they will not get to the stage where they have an advocate to help them take advantage of any measures contained within the Bill, which we would argue are not really sufficient to protect domestic workers anyway.

Q53 Chloe Smith: Do you think the other aspect of the previous regulations that enabled the person to be employed for longer periods ought to be reinstated?

Kate Roberts: Yes, definitely. What we are arguing for is only that a domestic worker can remain in the UK if they can prove full-time employment with no recourse to public funds, as a domestic worker in that specific sector—only if there is a demand for their labour. They would have to apply to the Home Office to renew their visa every year, which provides a level of scrutiny on their employment conditions. At the moment, they are driven underground; they are criminalised. If the Home Office is not satisfied that the employment is genuine, they should ask more questions before renewing the visa.

At present it is a six-month non-renewable visa. Changing employers within six months would not help them at all, as far as I can see. You would leave the first employer, having been massively exploited and with no reference. If you have left because you have not been paid for, say, four months, you have two months left on your visa; that is not even time to go to an employment tribunal, let alone support and accommodate yourself while doing that. In theory, you could get another job but who is going to employ you on a two-month visa for a task? Domestic work involves inviting someone into your house, often to care for your children or an elderly person. It is longer-term employment.

Q54 Chloe Smith: Moving away from the visas question and on to other protections that need to be afforded to victims of slavery or trafficking, you have already said that you think part 4 of the Bill is not enough. How do you think it should be improved?

Kate Roberts: There are several things we would like to see. One thing we think is really important is bringing the national referral mechanism on to a statutory footing. In our view, a lot needs to be done within the national referral mechanism. We think that the 45 days is not enough. We think it needs to be removed from the competent authority as they stand. A lot of evidence has been given on the decision making and the difference between the different competent authorities. We would very much want to see it removed from the control of UKVI. We would like to see residence permits used more readily. In our experience they are only ever provided where there is a criminal prosecution. We think there needs to be more.

Obviously there is the review of the NRM going on at the moment but there needs to be a look at the quality provided to people who are accommodated and supported. At the moment it seems to be a little bit arbitrary. People are accommodated where there appears to be a vacancy. Sometimes very needy people do not have very much support, including support to access legal representation. They have access to legal aid but they still need to secure legal representatives. They also need support in moving on and rebuilding their lives.

The Chair: Do the other witnesses want to add anything to the questions that have been asked?

Andrew Wallis: May I say something? Unseen provides direct services to adult survivors who are within the NRM. There are numerous issues, some reinforcing what Kate said. The 45 days is an arbitrary period, which has a number of problems. The truth is that, at the moment, we have someone falling down the side of a cliff, we give them 45 days in a safety net and then we remove the safety net and they carry on falling down the side of the cliff.

Any economist will tell you that ultimately they are going to go round again and they will end up costing more to the public purse. We need to have a rethink about what we are trying to do with the victims of crime—not immigrants or migrants or anything else—victims of crime. We need to apply the same standards that we would to any UK citizen who is a victim of crime. It is about finding ways to reintegrate these people so that they become resilient members of society. Otherwise they become vulnerable to re-exploitation.

The other issue for those who have a conclusive grounds decision and right to stay in the UK is that they immediately encounter a host of problems. The first is access to a national insurance number, which takes a minimum of 72 days. So if there is a push to get a conclusive grounds decision within that 45-day period, what would you like me to do as a provider of services to victims for those three weeks? Do I make them street homeless? Do you expect the third sector to take all the costs and keep them for those additional days? That means that I am shutting off beds to other victims who are coming through. Given that we operate a 90% occupancy rate all year round, those would create problems.

Though not necessarily for legislation, at policy level we certainly need to align things, so that when someone has gone through the NRM process and a conclusive grounds decision has been made, those other things happen that enable them to begin the process of reintegration and full recovery into society. Without a national insurance number you cannot access jobseeker's allowance, housing or even go on to a waiting list for housing. There is a host of problems.

There are other issues around trying to comply with the European convention, such as access to counselling. Again counselling during the NRM period, which is fraught anyway with a multitude of issues that a survivor has to address, is entirely the wrong time. When counselling someone who has been a victim of trafficking—and the evidence is that they have suffered something akin to torture—you are just re-traumatising them once you put them into the counselling process.

We need a major rethink around whether we are about creating a safety net or reintegrating survivors into society, so that they can become full members of society, and if they are staying in the UK or overseas, that they are then able to contribute to that society. I think we are a million miles from that at the moment.

In terms of the competent authority, the evidence we took when we did the CSJ review, and the ongoing evidence we have from working with survivors, is the blurred line between what is an asylum issue and what is trafficking. We would say let us address the primary issue. We have presenting before us someone who is potentially a victim of the crime of trafficking, modern slavery or servitude, however it is defined in legislation. Let us deal with that first and, secondly, we can deal with asylum. Let us deal with that first and, secondly, we can deal with asylum. We see too many times when those issues get blurred—when a survivor is interviewed about their asylum status as well as their trafficking status. When we have challenged decisions that have been made, particularly by UKVI, we find that they back down. That means that those engaged in the process are losing confidence in the decision-making processes coming from UKVI. That is not the case with the decisions that come from UKHTC. I know there are complications because you are dealing with foreign nationals, not EEA nationals, but the argument for a single competent authority—in which UKVI contributes to the decision—that is a multidisciplinary team looking at the psychological and medical as well as the legal and immigration status, would get us to the place where we have much more robust decisions that everybody buys into. Then we do not get into a silly merry-go-round of judicial reviews when we want to challenge things because that adds to the cost to the public purse. We need to find something that makes the conclusive and robust decision about whether a person is a victim of crime or not—yes or no—that everybody accepts.

Lucy Maule: I agree that the knock-on effect is a lack of confidence in the NRM. When we were taking evidence from more than 200 individuals, organisations and victims, we found that repeated lack of confidence in the NRM—the lack of transparency within it.

I agree with Andrew that the authority that UKVI has to make decisions at the moment is not appropriate. It is not really fair expect a potential victim to make the welfare case around trafficking to the same agency that is making a decision on whether they have a right to be in the country. Of course, we understand that there is a role for UKVI in that process but it should not be that every case where a victim does not have status in the UK is then transferred to UKVI where there is a host of different issues around their capacity and their case loads.

We spoke with UKBA workers, as they were then, when we were doing the report and they said, "We don't have time to make these decisions properly." They were trying rotation set-ups and one week on, one week off with Border Agency officials and were completely overwhelmed by the case loads. That kind of multi-agency model in UKHTC would be a much more positive way of doing things. We agree that the NRM should be placed on a statutory basis but only after the NRM review has been completed because it is important that we develop an NRM that everyone is happy with and that works. Everyone agrees that it is not working as it is at the moment but we agree that the endpoint to that should be placing it on statutory basis.

Q55 Phil Wilson: I have some questions for all the witnesses about the anti-slavery commissioner. The function of the proposed anti-slavery commissioner is restricted to galvanising law enforcement and identifying victims. Should the commissioner also have responsibility for victim support?

Andrew Wallis: Yes, it is vital that the commissioner gives voice to the victims in this. We know, from dealing with victims face to face every day, that you learn new things about how the perpetrators of those acts work and how they are constantly changing their tactics. If victims do not have a voice, who is going to give them one? Who is going to inform police, the Government and other agencies that these are the issues that are coming up in the process because, otherwise, where do they go?

Kate Roberts: We would like the commissioner to have more independence than as it stands in the Bill. As it stands, they are very answerable to the Secretary of State. Their powers are limited and we would like to see that addressed, for them to have any real impact.

Lucy Maule: A role for the commissioner, in terms of victim support, is overseeing the Government's contract delivery. In our research, we found that you have got numerous subcontracting organisations that provide support for victims—Unseen is one—but there is a complete array of standards, ways of operating, ways of dealing with the very tight time frame of 45 days, ways of dealing with UKVI and the Home Office. I would see a really sensible role for the commissioner, perhaps as an increased independent role, to oversee and perhaps offer some kind of qualification, kitemark or something just to make sure that we have got oversight of these organisations. They are all doing incredible work, but with very limited resources; high staff turnover, lots of cases and pressure from the contracting organisation and the MOJ, who deliver the money, to keep things moving and keep victims moving on.

There is a real role for the commissioner there, but we also see the commissioner as an increased role in terms of accountability at a higher level. That is, not just co-ordination of law enforcement. I do not think that the commissioner should just be about co-ordinating police work—there needs to be that higher accountability. One of the primary reasons why the CSJ recommended a commissioner was for that kind of higher level accountability where we did not see a huge amount of leadership. When there was leadership in Government, an election or a reshuffle would happen and then there was a sort of step back in terms of progress, understanding and knowledge of the subject. We saw equivalent roles in places like the USA and the Netherlands where there are people who have fantastic relationships across Government and who are able to galvanise them in

terms of their activity and progress. While law enforcement co-ordination is really important, there needs to be that higher level oversight as well.

Q56 Phil Wilson: I think part of the answer to that question has sort of pre-empted what I am going to ask next about the independence of the commissioner. I want to ask all three of you so I might as well roll these three questions into one. Do you think that, as it is laid down in the Bill, the commissioner is sufficiently independent from Government? Clause 34(4) says that the commissioner's remuneration, staff and accommodation would be provided by the Secretary of State as they see fit. Is that right and appropriate?

The Bill also provides for the Secretary of State to approve the commissioner's plans and reports and determine permitted matters for the commissioner to report on. Should the commissioner have greater autonomy in planning and reporting?

Andrew Wallis: Yes.

Kate Roberts: Yes.

Lucy Maule: I think it is important that the commissioner has—

Andrew Wallis: I think context is important as well. How much do we spend on the war on drugs? Millions if not billions. How much do we spend actually combating and trying to think of how we are going to tackle modern slavery? The International Labour Organisation this year released that the profits—not the turnover—of slavery is $150 billion per annum. We are trying to tackle this issue with both hands tied behind our backs and our feet crossed and we wonder why we do not make headway. There needs to be an element of realism. Part of that is having someone that can galvanise and focus because this issue goes right across Government. It is not just a Home Office issue; it affects business and every single area of Government. Unless you have got someone who can focus with real precision right across the issue and who also has the representation of victims, then good luck.

Lucy Maule: I think it would benefit the Government to have that level of independence. What we saw in the Netherlands was not a negative relationship between the equivalent commissioner and the Government; it was a positive one. It was relationship building, but, we use the phrase, of a "critical friend". It was someone who could be realistic, who could launch their own inquiries, who could do their own reports. They answered to the equivalent of the Ministry of Justice, but of course there would have to be links with the Home Office and the Home Secretary or relevant Secretary of State. However, I think that a higher level of independence would benefit Government.

Q57 Phil Wilson: Kate, do you want to add anything?

Kate Roberts: I agree very much about the independence. I am concerned that, as it stands, the commissioner is not independent enough and there is a risk that they will not have enough funding to do a serious job, or have the powers to command the information they need to do a serious job.

Q58 Phil Wilson: Do you think clause 34 does not offer the anti-slavery commissioner the independence that they would require for them to do the job properly?

Andrew Wallis: Ultimately, this is about collaborative working and enabling a focal point for that collaborative working to take place. That affects policing, borders, the business community and NGOs. I can understand why Government are nervous about beefing up the role and giving it the powers and independence to do that, because the Government have had their hands bitten in the past, but unless we have a collaborative response to this issue, we will just be coming up with sticking-plaster solutions and not actually turning the tide against it.

Q59 Sarah Champion: Mr Wallis, you spoke of the enormity of this crime and having your hands tied behind your back. Looking at the Bill, are there specific areas that we should be building, enhancing or strengthening, and are there omissions that we need to be tackling as well? I ask you, but also the panel.

Andrew Wallis: The glaring question is where business is in all this. At the moment, we have a prosecution Bill with a little bit of prevention, and nothing about partnership. Business is not seen anywhere. The truth is that NGOs and Government are broke. The issues around business, and the vulnerability in its supply chains and practices, are huge and are recognised globally. Businesses want to see Government taking a lead on this issue. They want a level playing field. More and more businesses are starting to come forward. They are saying things privately, but they are getting to the point where they are going to start saying things publicly, looking to Government and saying, "Unless you level the playing field for us, those businesses that do the right thing will be hamstrung, because Government aren't doing their part." I think it is key to do that.

On the specifics of transparency in the supply chain, I disagree with the pre-legislative Committee when it said to put it in the Companies Act, because there is a real danger that you will end up penalising just British businesses, and you will not catch private businesses. The point of putting it into the Modern Slavery Bill is to make the playing field level as far and wide as possible. We argue that businesses doing business in the UK over a threshold limit should start disclosing what they are doing.

For those companies that are doing good things, this is not an issue. I would say to those businesses, "Use it to trumpet all the good work that you are doing. Use it to all the commercial advantage you want, in terms of gaining greater market share and all that." But for those businesses that cut corners and know they are cutting corners or turn a blind eye to it, it means that they will have to start looking at this issue. Then it will become a preventive issue, and it will give something of substance to the Bill in beginning to make the systemic change that needs to take place in order to tackle this issue, both in the UK and globally.

Kate Roberts: For us, a major omission is that overseas domestic workers are not provided for in this Bill. There remains in place a system that facilitates their exploitation. Domestic servitude is a big issue—they are recognised as a particularly vulnerable group—and having that system in place undermines the intentions of this Bill. We cannot understand the reason for the 2012 changes. They have resulted in an increase in exploitation. We and other organisations are left in a position where we are unable to help these workers, because they have no rights in law.

For those who do come forward, there is very little we can do, other than referring to the NRM. So there is an increased cost to the public purse, because those who do take up the service now need accommodation and legal aid because they have got massive immigration cases, whereas before, if they were in a position to work, they could find another job with no recourse to public funds, pay all their costs and pay tax and national insurance. We would like to see that properly enforced and for them to remain visible.

As far as we can see, there has been no effect from an immigration perspective. We were really interested to see that in 2013, there was an increase in the number of visas issued compared with 2012. It does not make sense, and it seems to undermine the intentions of the Bill.

Lucy Maule: As well as the transparency element and the partnership with business, it is about victim protection. If we are looking to increase convictions—if that is one of the main aims of the Bill—we have to protect our victims. We saw again and again victims who were being supported by support aid organisations but had absolutely no involvement with police or any kind of investigation, because they were too damaged, too frightened and not being supported enough. There was a small window for organisations being able to support a victim, and then they were gone. A huge challenge—this was quite difficult to hear when we were doing our research—was that victims who had been through the support service had had to leave and no one had any idea where they were. Some charities thought that some of the women they had looked after might be back in brothels against their will. That is not a success story; that is a failure.

In terms of successful prosecutions and convictions, we need to increase our victim protection and I think that will be done by placing the NRM on a statutory footing. That is one area that is missing, as well as independence of the commissioner.

Q60 Sarah Champion: Would you support guardianship, rather than advocates, for children for that reason?

Lucy Maule: That is not an area that we looked into in great detail, so I cannot answer that. Andrew may have a thought on that.

Andrew Wallis: I think the case for guardianship is unproven at the moment. Going on the evidence that we took for the CSJ report, we found systemic failures in understanding how to apply the Children Act and in social services understanding not only that they were a first responder, but what the particular needs of that child were. We found children being shoe-horned into services that were either inappropriate or did not meet those needs.

There is a lot of work to be done in terms of understanding the particular issues, such as psychological issues, faced by a child victim of trafficking and what therapies they need, and the glaring gap in this country is that there is no appropriate accommodation for them to go into. In the worst-case scenario they are put into bed-and-breakfast accommodation or foster situations where the foster parents were not even aware that the child was a victim of trafficking. I would like to see a commitment to seeing social services trained, the correct application of the Children Act, and appropriate accommodation. Then let us review whether we need a guardian.

I have moved on my position. I can see that a legal advocate is needed when you get into the judicial process, so I would be in favour of that, but I fear that full-blown guardianship will be stuck on the top of the system that is failing, and then we will wonder why we have guardians of missing kids and precisely what we are paying them lots of money to do.

Q61 Mr Burrowes: To what extent is the problem of successful prosecutions down to a lack of clarity in the definition of modern slavery? Clause 1 refers to article 4 of the human rights convention, which describes essentially what it is not. Do you want to see a wider definition of exploitation that covers not just what we see now, but what we might see in future years—the ongoing issues in modern slavery that go beyond the traditional forms—and the issue of compulsion and consent?

Lucy Maule: To start with, it is a massive step forward to have these offences under one Act. When we were doing the CSJ report, one of the biggest problems we found was that we had these disparate offences, some of which were under immigration law and some under criminal law, which made it confusing for police officers and prosecutors to understand. It is a great step forward to have these offences under one Act.

I think that they could go further, but there is then a risk that you accidently encompass crimes other than slavery. The definition of exploitation is very difficult to fathom, but I encourage the Committee to hear from lawyers who will have to take these offences into the courts, prove them to a jury and judge and make them work. I am not legally trained, so I have limited knowledge on that, but bringing them into one Act is a fantastic step forward; it is one of the main reasons why we called for a new Bill in the CSJ report.

Q62 Mr Burrowes: I appreciate your comments about bringing it all into one Act, but in your evidence did you hear concerns from prosecutors or agencies about there being a problem of lack of understanding and definition?

Lucy Maule: Yes, I think there was definitely a problem of confusion between what was modern slavery and what was exploitation. When it comes to the Bill, it is about explaining that and ensuring that people understand, so that juries are aware of what they are dealing with and what the cases are. In terms of the actual definitions in the Bill, it is not for me to say whether they will work, but we do need to ensure that we are not creating more loopholes rather than sewing up old ones.

Kate Roberts: Again, I think it is important to remember that, unless victims are coming forward, you are not going to get the prosecutions anyway. What you need is a situation where not only do victims come forward, but, when they come into the police station, they are identified as victims rather than immigration offenders.

Andrew Wallis: History is important, in terms of our understanding of what we are dealing with. Historically, we thought we were dealing with sexual exploitation that took place across international boundaries. The Palermo Protocol affected some of that thinking and understanding. We now know that slavery has morphed into a whole load of different areas, which is why the legislation grew up piecemeal.

We have had a journey from understanding it as an immigration issue. Formerly, when it was prosecuted it was seen not as a crime but as an immigration issue, and

the police would default to calling what was then the UK Border Agency. They would say, "Let's just turf them out of the country", and not recognise that those people were victims of crime. There must be some consideration and understanding of the fact that this issue will morph over time. To keep up with the issue, the legislation will need to be reviewed regularly—perhaps once every five years—so we can look at what we know about how the crime is manifesting and ask whether we need to adjust the legislation accordingly.

Q63 Michael Connarty: As you know, my interest in the Bill is specifically in what I consider to be a major omission. First, a simple question: should the Bill include a mandatory, rather than a voluntary, measure on corporate supply chains?

Andrew Wallis: Yes.

Kate Roberts: Yes. It is not my area, but it is clear to me that it should.

Michael Connarty: Lucy?

Lucy Maule: Yes.

Q64 Michael Connarty: The Government's reply has consistently been they will build voluntary ethical partnerships with business. Is that adequate?

Andrew Wallis: If you can come up with evidence of where a voluntary code has been effective right across the piece then, yes, I would go with a voluntary code. However, there is no evidence to prove that they are effective. Added to that, business is beginning to say, "We want you, Government, to do something about this. The only thing you can do is legislate to create a fair and level playing field for us," so you should legislate.

Michael Connarty: Lucy, do you have a similar view?

Lucy Maule: Yes. Voluntary codes tend not to work very well. We have heard from businesses that they are almost craving for a line in the sand that everyone can step over together. I understand that the Government see legislation and business and think, "Ah! We don't want more red tape", but the Bill is about working in partnership, enabling businesses and helping them to step over the line together. It does not have to be burdensome or overly harsh; it can be practical. It is about partnership with Government. More and more, we are hearing that business wants that.

Andrew Wallis: Fundamentally, it should be viewed not as red tape but as a measure to protect British business. You need only to look at recent cases, such as those involving the Thai fishing fleet or tea from India, in which UK companies were caught, and at what happened to those businesses. The phenomenal rise of social media in past two or three years, added to 24-hour news services, has led to discussions with business about risk and reputational damage, which affects their share price. I think shareholders are really concerned about this issue, so we need to change the narrative so businesses are encouraged to start looking for and reporting it. Putting in place measures to ensure it cannot happen again will protect them.

Q65 Michael Connarty: I recognise that line of argument from when Rathbones gave evidence to the Joint Committee on business risk and benefits. My last question is, what kind of legislation should be in the Bill? It has been argued that an amendment to a section of the Companies Act would be sufficient. Others have argued that there should be something more along the lines of the California Transparency in Supply Chains Act or the private Member's Bill that was unfortunately talked out in this House. What amendments should we table to enable the Bill to deal with the international aspects of human trafficking and slavery in a manner akin to Wilberforce's aspirations 200 years ago?

Andrew Wallis: The first thing I would say is that supply chains are also in this country. I would refer you to Happy Eggs and the cockle pickers from 10 years ago—I could go on and on. Therefore, the issue of supply chains needs to be dealt with not only internationally. If you put it in the Companies Act, private companies are not mandated to non-financial reporting so large sections of the high street will be exempt because they are in private ownership.

Business also likes consistency around the globe. California has gone first, as Californians are wont to do, but there is an understanding, certainly among global business, around the requirements in the California legislation—for example, on disclosure, on reporting in terms of training, on independent audit, on a company beginning to press down its supply chains and on procurement. I would argue that you take that transparency in the supply chain legislation and put it into the Modern Slavery Bill, but, where there has been criticism in California, you give it a little more clout by saying, "You must report on this in your annual report and say what you are doing." It is okay for a company to report that it does nothing because it does not think that the provisions apply to it, but I do not think that any company would go down that route.

Let us begin this narrative journey with business. There are so many pluses for a business in doing this because it begins to be able to manage its risk and it begins to understand its supply chain. Whatever companies tell you, most supply chains have got out of control over the past 20 years with rapid globalisation, so as businesses begin to address the issue and look down at supply chains, they will understand not only the vulnerabilities that affect their business but how they can make that more profitable. I am all in favour of UK businesses becoming more profitable, so I see this proposal as an enabler of that, with a by-product being that you are actually helping people who are in enforced labour and servitude, within the remit of business, to get out of that situation.

The honest truth is that the global corporations have the financial clout to deal with this issue; I am afraid that Governments and NGOs do not. All we can do is legislate and enable businesses to race to the top.

Kate Roberts: We sit on the Anti-Trafficking Monitoring Group, which has just produced an alternative Bill that I believe has been circulated among members of the Committee. There is a section in that alternative Bill on transparency in supply chains that would impose a duty on every company operating in the UK whose annual worldwide gross receipts exceed £60 million, and that would include annual disclosures.

Lucy Maule: I think that the TSC model in California is great. I agree with Andrew that it requires a little more clout, but the sense is that there is a global shift and there is a need for legislation. It is crucial for big

businesses to know that their competitors are doing the same. I agree with Andrew that there needs to be a global standard, so I do not personally think the Companies Act goes far enough either. We have seen the evidence from California that the model there is beginning to work, and it is a good model.

Q66 Chloe Smith: I have an extremely quick follow-up question on that point. I am interested in what you have just said. Linking back to the way that the overseas domestic workers regulations are very micro—they are about one person and an employee—why would you leave small business out of what you have just articulated?

Andrew Wallis: I think it is about the heavy lifting and resourcing. Companies do not want a different threshold level from California, in terms of output—they understand where that threshold is and it gives them comfort in saying, "Okay, it isn't in one area of legislation; it is here and there". You want some parity around that. The thinking behind the California Act was that big business would drive it—it had the resources and the smarts to do it. Business will be business and will learn how to monetise this over time.

There is also a shift in big business, which is on the issue of corporate social responsibility—those days are probably over and it is about understanding that the issue is about doing good business. If you want to attract the brightest and the best, it is not enough just to say what you are doing; you have to start to demonstrate what you are doing. This is about not only greater but better profitability for business. It is a bit like what Unilever or Branson and others are currently discussing—plan B. That is the thinking behind it.

This is not about beating up business; it is about enabling business to address an issue that is a fundamental risk to business. No one in the business community wants to be the next Nike and Gap of 15 years ago, because that does horrendous things to your profits and share price and takes years, if not decades, to recover from.

Q67 Chloe Smith: But it's okay for small businesses?

Andrew Wallis: No, I think it will work its way down from that over time. If you allow big business to do the heavy lifting, small and medium enterprise businesses, which I know are the vast majority in this country, can learn from that.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee to ask questions. On behalf of the Committee, I thank the witnesses for their evidence.

Examination of Witnesses

Nadine Finch and Peter Carter gave evidence.

5.30 pm

The Chair: For this session we have until 6 pm. We will now hear evidence from Nadine Finch of Garden Court Chambers and Peter Carter, QC, of Red Lion Chambers.

Q68 Diana Johnson: The aim of the Bill is to get more prosecutions. From the offences drafted in clauses 1 to 3, do you think we will see more prosecutions? Also, can you comment on the Joint Committee's proposal for a hierarchical list of offences? Would it cause confusion in the court, particularly to juries, if that was adopted?

Peter Carter: First of all, I think that having the offences consolidated in this Bill will assist in bringing more prosecutions, because it will be more obvious that this range of offences is all there. If the recommendations of the Joint Committee had been adopted, I think there would have been even more. I think the chances of success would have been far higher in the Joint Committee's draft. I fear there is a greater risk of confusion in the offences in the draft Bill before Parliament than in the cascade of offences. I will explain why. First is the absence of a child-specific offence. When people look at this, they will wonder why on earth there is no reference to a child, because, in the international covenants and in the EU directive, there is. I do not understand why there isn't. The suggestion that I heard this morning from the Director of Public Prosecutions, and noted in the draft I have seen of the Government's response, is that it would be too difficult. Well, I am afraid that that is a poor answer, because we have specific offences in any event and we manage with that.

The idea of a cascade of offences was not, as the director said, to enable a thoughtless or inadequate prosecutor to throw the entire catalogue at a defendant, but to encourage a prosecutor to think carefully about what the evidence demonstrates, and to then be able to draft the appropriate charge, which will be the most serious appropriate charge that the evidence will sustain. The idea was not to draft a series of lesser charges in the hope that some kind of plea negotiation could result, but to prosecute the most serious offence that the evidence sustains. If it turns out that there is some doubt about it—for example, about whether it is a child or an adult—the prosecutor would make a decision as to whether the evidence could sustain that. If it did not, they would go for the next one down the cascade without confusing the jury. Juries are sophisticated bodies. They are used to making differential decisions, and they find it easier to make differential decisions on a cascade than they do on things that have completely different dimensions.

I know there is limited time, but may I say one other thing? One thing that concerns me is the extraterritorial extent of the two separate provisions in the Bill, which I think will cause confusion. Trafficking, in clause 2(6) and (7), has extraterritorial effect, and servitude does not. Yet part of exploitation by way of trafficking is committing the offence of slavery and servitude, so there is a partial intra-territorial and a partial extraterritorial effect. I find that rather confusing.

Nadine Finch: I would like to begin by saying something very briefly about clause 2. There has been quite a criticism about how the wording in clause 2 does not reflect international wording about trafficking. The benefit of having international wording is that there is an awful lot of expertise out there, both internationally and in Europe, where people have discussed academically or in courts the meaning of the words. So although the word "travel" used extensively in clause 2, it is not clear what travel really means. There is a kind of internal definition but I fear that in prosecutions we will go into many long defence submissions about what travel means, as opposed

to what the other definitions of trafficking mean, in the EU directive, and other things that we are also bound with. That is a minor point.

In terms of child exploitation I think it is a real pity that an offence of child exploitation did not end up in the draft Bill. In my view, as somebody who represents a lot of child victims, it is a real lacuna. Children are at a huge disadvantage in evidential terms. They very rarely understand they have been trafficked—what trafficking means—or what kind of evidence is needed. They particularly do not understand the movement part of being trafficked to the situation of exploitation; because they may well have been duped by their elders—by their parents. They may well have been too frightened, or not understood the movement. Therefore, children are more likely to be able to tell you about what happened to them when they were exploited than to be able to tell you about what happened to them when they were actually moved, or when travel was involved. That is a really important issue.

Many of my child clients can tell me about what happened when they were exploited in domestic servitude, in a restaurant or in prostitution; but they actually did not understand enough about the links between people who brought them across England, Europe or the world, and therefore they are not able to assist the police or prosecutors in terms of a trafficking offence. They can assist in the matter of exploitation, and I have got quite a few children who have been able to take the police to a house where they have been kept in domestic servitude or sexual exploitation, but they are not able to explain who brought them to that house, and therefore no prosecution happens.

Many of the children we hear about who are kept in cannabis cultivation houses actually escape from the first house. Somewhere along the line they fall back into exploitation, but the only person they come across is the immediate person who brings them their food or their drink. Therefore there is no prosecution of that person, who has been exploiting them, because they have not been involved in the rest of the chain. So there are many children who, even under the new and welcome provisions of this Bill, will not be the victims who get the satisfaction of having their exploiters prosecuted.

I would just like to say two more things. It is said by the DPP and others that the offence of child exploitation is unworkable because, I have heard them say, the issue of age assessment will be raised. I appeared last year for the Children's Commissioner in the case of L and others and one of the issues we took up was the difficulty of addressing age assessments in a criminal court. Lord Judge, the highest judge in the criminal courts at that time, accepted that the criminal court already has case law that enables a judge to adjourn a hearing if there is an age dispute. The court can seek expert evidence on its own, but it can expect both prosecution and defence to bring evidence that will enable them to resolve an age dispute. That is set out in detail in the case, and there was no doubt in the mind of the Lord Chief Justice that it was workable. It has worked for decades in terms of age assessments, so that issue, in many ways, is a red herring.

There is also the other red herring, which is that it would mean that parents who required their children to do washing up might be guilty of child exploitation. That is an exaggerated attitude, but in my view there are two simple ways to deal with it. One that has been suggested by some civil society members is defining exploitation of children by the worst excesses of exploitation, which are already in various international instruments. Examples are domestic slavery and many other things that we already know, such as illegal child marriage and benefit fraud. It is all these things, including street crime and begging. Most people would accept that that was exploitation of a criminal nature, as opposed to exploitation that may be of a very minor nature.

You could go about it in another way and look at the contents of the convention on the rights of the child, which includes many articles that look at child exploitation of different sorts. You could define the crime by reference to what would be a breach of that convention.

Diana Johnson: Could I just ask about—

The Chair: Quite a few hon. Members want to ask questions, so can we keep the questions short and the answers brief?

Q69 Diana Johnson: I just wonder what you think about clause 39 in terms of schedule 3 and the list of offences that are not covered by the statutory defence, particularly in relation to children and how they would use clause 39.

Nadine Finch: I might come back to the non-prosecution angle, but in terms of the defence, as it is currently formulated, the defence does not actually protect children, because the word "compelled" has been used and, as one knows, the definition of trafficking accepted both in this Bill and in the EU directive and the Council of Europe convention means that children do not have to show the means. If you are prosecuting somebody for trafficking a child, you do not have to show the means; you do not have to show that the child has been compelled. A similar mistake was made in the EU directive, where there was also use of the word "compelled". It means that you have the ridiculous situation in which you do not have to prove means to show that the child was trafficked, but you have to prove means to show that the child is entitled to a defence. That cannot be right. There is some internal inconsistency that will be used by traffickers to evade prosecution and used to make a mockery of the child's defence, so in my view, unless the word "compelled" is removed for children, there is no defence for children.

Peter Carter: I think it is unduly complicated. I think legislating by list of exceptions is a recipe for disaster and confusion, and some of the items included in the schedule seem to me to be wholly inappropriate for trying to protect people who are victims of trafficking. People who are victims of trafficking are likely to commit offences that are immigration offences in an attempt to escape. I notice that generally there is not an identity Act offence there, but there might well be. I do not see the consistency between clause 39(1)(c), which has an overriding requirement that the act committed be an act that a reasonable person will commit in those circumstances, and then having a list of serious offences that are excluded altogether. Presumably, a reasonable person would commit a serious offence only in extreme circumstances in which their actions were justified or were regarded by normal people as justified, so scrap schedule 3.

Q70 Sir Andrew Stunell: Earlier in the sitting, I asked the DPP whether she thought that there were any gaps in the offences in the Bill and she replied that she did not. She also said that she thought that the main effect of the changes would be a re-categorisation of prosecutions that were taking place anyway. Would you like to comment on her observations?

Peter Carter: I must say I thought, Sir Andrew, that some of the DPP's answers about what was included clearly within the clauses in the Bill and what was not were not altogether precise—for example, whether begging would be and whether miracle babies would be—and that is a problem. Because there is not a child exploitation offence, using children for the purpose of exploitation may or may not fall within these provisions. I think that the uncertainty about that is a big problem.

Nadine Finch: I agree with Peter. If one looks at clause 3, which defines exploitation, it defines it only in relation to clause 2 trafficking, and, as I said before, many of the trafficking cases will not be proven when a child is the victim. Then you move on to clause 1, which may at first blush appear to cover everything, but it requires a person to be held in slavery or servitude or required to perform forced labour, and actually some of the things that children experience as exploitation do not fall neatly into that particularly strong definition. A child who is exploited for the purpose of benefit fraud may well be sent to school and may well celebrate Christmas, but actually they are being exploited for benefit fraud. They have been taken away from their family and their community for the purpose of benefit fraud. When they are 18, they are usually put on the streets because they are no longer economically an asset to whoever is exploiting them.

Peter also mentioned baby farms. I have been concerned for a long time about babies I have come across in the family courts who have been brought here for illegal adoption or other exploitation. The attitude is that nothing has particularly happened to the baby, because they do not understand that they have been brought here from Nigeria or somewhere else in west Africa, but of course that child has been taken away from their family for ever and will never discover their identity. They have been taken away from their culture. Every child has a right to a family and a cultural identity, and that has been stolen from them for ever. In my view, that clearly is exploitation—it is certainly a breach of the convention on the rights of the child—but somehow, people do not give babies the same rights as older children or adults, and I think that must be wrong.

Q71 Sir Andrew Stunell: So can I summarise that as: you believe there are gaps in the Bill as it is?

Nadine Finch: Yes.

Q72 Sir Andrew Stunell: Would you be able to write a note for the Committee to express that more precisely?

Nadine Finch: Yes, I would.

Q73 Sarah Champion: Ms Finch, does clause 41, on advocates, contain adequate provision for the representation and support of child victims of trafficking?

Nadine Finch: At the moment, one is not completely sure what the child trafficking advocate scheme is going to be, because the actual scheme has not been made public. We know very broadly speaking from Barnardo's that they are setting up the scheme in 23 different local authority areas, and we know it is going to be random selection. As yet, however, we do not know exactly what different areas will be looked at.

I was part of an expert group in Vienna that was set up by the European Union Agency for Fundamental Rights to look at child trafficking. We looked at trafficking guardians throughout Europe, and it is clear that, to be effective, the guardian has to have some legal status. Otherwise, in the wider child protection system that is operating in lots of guidance now—actually, it works here quite well, because we already have multi-agency safeguarding hubs run by the police with local authorities in local authority areas, and we have many local safeguarding children boards, which already meet with health, education, the police and NGOs to look at the situation of trafficked children in the local authority area, so we have people working on child protection. For a guardian to be truly effective, however, they have to have equal status within the statutory system to be able to say, "As guardian/advocate, I do not think that social services have put them in the correct safe accommodation," or, "I do not think that that child has been given the proper psychological assistance."

As Andrew said earlier, there have been a lot of complaints about local authorities not fulfilling their statutory duties, but there are other professionals from the child protection system more widely who are capable of filling some of those gaps if they work together. That will only work, in my view, if there is a legal guardian able to pull that together and get people to exchange information and skills. Unless the person has more than an advocate status, however, they may not even get into those meetings.

Q74 Sarah Champion: Should legal guardianship be tested within the Barnardo's pilot that is going on?

Nadine Finch: I think it should be. I am presuming that it is not, but it should be. Otherwise, all that is being tested in that pilot is whether an advocate works. My presumption at the beginning was that various models would be tested. The evaluator is going to have difficulty evaluating the whole scheme within a year, but particularly when there is only one model there and we do not have any guardianship, so what are they going to test it against?

Q75 Gareth Johnson: May I just take you back to your comments about the possibility of having an age-specific offence in the Bill? What would you say to those people who say that if you are prosecuting an offence—any kind of offence—there is a series of hurdles that you have to overcome, and that putting in an additional hurdle of having to prove the age of the person who is being enslaved would simply require more work to secure a conviction? You said earlier that there are already offences on the statute that require the prosecution to prove that someone is of a specific age. It is normally under a particular age; I guess you were thinking about sexual offences.

However, I think we can agree that, for the vast majority of offences, you do not have to prove the age of an individual, for good reason—it is dealt with in sentencing as an aggravating feature. For example, for

[Gareth Johnson]

an assault or a murder, it seems unnecessary to require the prosecution also to show that someone is of a particular age. It would not be desirable for any prosecutor to have to prove the age of the individual in addition to everything else, when that could be dealt with as an aggravating feature on sentencing.

Peter Carter: It cannot be. That is the problem. It can be dealt with as an aggravating feature on sentence only if the age is proved at the time of sentence. The argument on appeal would be, "Wait a minute. The court has made a determination of the victim's age. The jury could have done that, but they haven't." You are going to have the same issue about how you prove age at whatever stage you do it.

An offence of exploiting or trafficking a child is inherently more serious than one of exploiting or trafficking an adult. In order to be able to reflect that in the sentence, you ought to have the evidence that enables the judge to say, "My starting point for sentence is materially higher than it would be if you had been convicted of the non-child exploitation offence."

Q76 Gareth Johnson: If I may, if a judge is looking at sentencing, he can say, "This person is around 17 to 19 years of age. I will treat the sentence on that basis." However, for a conviction, the case could fall or stand on that finding. It would create unnecessary obstacles if we asked someone to prove also what age they are.

Also, when a prosecutor is deciding what charge to bring, if they are not 100% sure of the age of an individual, they seem to have two choices: either charge for what you would describe as a lesser offence, or charge for both offences. That creates greater confusion for the jury. In your striving to simplify this, you could actually end up making this more complex.

Peter Carter: I am sorry, but I disagree. What is difficult about saying to a jury, "How old is this person? Has the prosecution proved that this person was under 18 at the time?"? That is not difficult. The answer is either yes or no.

Q77 Gareth Johnson: But if you say to a jury, "You need to look at this particular charge. If you find this person of such and such age, then that charge goes, and we look at another charge," you are creating a step process, which is not found to be necessary when you deal with any offences against the person—any kind of assaults, or murders. If you burgle the house of a particular age person, it may be an aggravating feature, but it is not necessarily the case.

There is a whole range of offences where you could, if you want to, make the law more complex, bringing in an age requirement that is not necessary. The courts deal with it quite adequately on sentencing.

Peter Carter: I am sorry, but I still disagree with the argument that it is over-complicating the matter. You either have an age that is provable, or you have, effectively, the same ingredients, minus the age. You simply have either the aggravated offence, because it relates to a child, or the less aggravated offence, which involves, essentially, the identical ingredients. If the jury are not satisfied of those, they will not convict, whatever the age. If the only issue is age, they will convict of the lesser offence.

Gareth Johnson: I think we could be here all day, Mr Chairman, so I am not going to continue on this.

Q78 Chloe Smith: I would like to return to Ms Finch on the point about child advocates, looking at clause 41.

Given that the clause allows for a lawyer to be instructed on the child's behalf and ensures that they are independent and that the public authorities are required to co-operate with them, what does the clause, in your view, lack?

Nadine Finch: I will draw a broad analogy with the guardians who appear in the family courts, who have not only independence but a legal status. If you appear in the family courts, you realise that, because of that status, they are able to raise, on behalf of the child, much more forcefully what they believe is in the best interests of the child.

Legal advocates will be able to instruct the lawyer, but they will have no standing in any legal proceedings, in the same way as a legal guardian in family proceedings will be asked by the court, as somebody who stands aside, who speaks for the child but is not necessarily instructed by the child, and that is a very important thing. I am a lawyer who represents many children, but because children do not have any legal capacity, quite often it is very difficult to take instructions from them.

But there is another problem. Sometimes you, as an intelligent, well-informed person, think that the child has been trafficked, but the child, for psychological reasons and because of loyalty to family communities, steadfastly says they have not, or perhaps does not even realise they have been, whereas a guardian with legal status could stand back and say to the other adults, "You and I look at the surrounding evidence and must come to the conclusion that this child has been trafficked." That is a role that I think an advocate could not really take, because they would still really be expressing what was told to them by the child. A guardian has an independent legal status and could stand back from the case and say, "Look at the evidence. This is what the child says and this is what I say as an independent expert with legal standing", and that is very important in lots of cases of children.

Q79 Chloe Smith: So going back to your earlier point about the way that, in your words, children may not understand the chain that they have been through, in what way is clause 2 inadequate, which seems to me to go through the different aspects of a chain fairly clearly?

Nadine Finch: In terms of clause 2 and trafficking, I do not myself think that it is impossible to get a child who has been trafficked into that clause, which is why most of civil society has asked for a provision on child exploitation, because we think it is with that group that the lacuna lies, not the trafficked children. If I could just cheekily go back to age, the issue about having a child exploitation offence and looking at the child part is actually a non-issue, because in every single exploitation and trafficking case where there is a child, age is an issue. It is an issue because the definition of trafficking is different for a child from what it is for an adult, so it necessarily has to be an issue. Age is always going to be an issue, because there is no need to prove means if it is a child, so it is going to come up.

Chloe Smith: I am happy to stop there, Chair. I assume others want to talk.

Q80 Michael Connarty: I recall, in written notes and evidence to the Joint Committee, that you, Mr Carter, had a very strong view about how supply chains should be policed or enforced, in terms of getting rid of slavery. You suggested an amendment similar to the Bribery Act 2010, which I have heard again through Anti-Slavery International, which has written to me in similar terms before. Why not just a company's supply chain or the transparency in supply chains, like California—why the Bribery Act?

Peter Carter: It is simply for giving an indication of how importantly it is regarded—by creating a criminal offence. The California model is a good model. The alternative, which the Joint Committee proposed, was having a requirement to report, which is a starting point, but I do not see why companies should be regarded as having a less onerous obligation in respect of human trafficking and transparency in chains when it comes to modern slavery than they do, for example, over money laundering or corruption. The Bribery Act and the Proceeds of Crime Act 2002 impose obligations on every big company, irrespective of whether they are £100 million companies, to comply with the law and to put in place proper provisions to make sure that they know whether they are breaking the law.

Michael Connarty: Okay, that's clear.

The Chair: If there are no further questions from Members, I thank the witnesses for their evidence. That concludes our business for the afternoon.

Ordered, That further consideration be now adjourned. —*(Damian Hinds.)*

5.59 pm

Adjourned till Tuesday 2 September at twenty-five minutes past Nine o'clock.

Written evidence reported to the House

MS 01 Professor Jean Allain