

# HUMAN TRAFFICKING AND MODERN-DAY SLAVERY

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## I. INTRODUCTION

Criminals are excellent at being inventive. They constantly find new ways to make money illegally. At one time if a criminal wanted to obtain a large sum of money quickly, he robbed a bank. Now it is extremely rare, at least in my country, for a bank to be robbed. Why is that? Partly it is because banks have improved their physical security. They have thick doors, thorough closed-circuit television coverage (CCTV), time delay locks on their safes, security guards and so on. People use cash less than before. Many transactions are now done electronically. Law enforcement techniques have improved, meaning that bank robbers are more likely these days to get caught. The risk of arrest and conviction is now greater than the potential profit. So, bank robberies have gone out of fashion.

Instead organized criminal gangs have turned to other crimes, where the profits available are huge and the risk of arrest and conviction is sadly low. There is still a lot of money to be made from drug trafficking, but detection rates are improving and so a number of gangs have moved into the lucrative field of people trafficking.

Human trafficking is a particularly mean crime. It targets some of the most vulnerable people in society at a time when they are desperate. It produces massive profits for the criminal gangs, but it destroys lives and it is exceptionally difficult to detect, and even more difficult to prosecute the ringleaders. It is a global crime which exploits the understandable desire of those born into poverty and hardship to try to obtain a better life in another country.

Life is not fair. I am one of the lucky ones, born in the United Kingdom where we enjoy democracy and freedom and we have opportunities to live decent lives, raise families, have good healthcare and support schemes for those in need. But it is sheer luck where we are born. If I had been born in a poor country, perhaps torn by war and civil strife, without a functioning economy or democratic rights, with a corrupt government and a badly paid police force which itself has to resort to corruption and criminal activities to survive, then maybe I too would find the courage to seek to escape and to make my future in a new country. And maybe I too would be exploited by an organized criminal gang only too happy to profit from my desperate plight.

## II. HOW DO THESE CRIMINAL GANGS OPERATE?

As with all gangs there is a hierarchy, with the major players at the top reaping the huge profits but rarely getting caught. At the bottom are the local recruiters. Often that local person is female. She may herself be a victim of the gang, forced to act at their direction. She will identify suitable victims to be targeted, the desperately poor, the abandoned, the isolated, and she will befriend them.

She will gain the trust of the victim, sympathising with the victim's sad circumstances. She will tell the victim stories of people she knows who have moved to another country and made a fortune, who are now living happy, comfortable lives. She will perhaps show them photographs of these people smiling and obviously wealthy, photographs of their new homes and cars. Of course, it is all untrue, but the victim doesn't know that. Slowly but surely the victim is drawn into the snare. The victim is promised a good job, accommodation, assistance with the travel. But it is a lie.

It takes a lot of courage to agree to move to a completely unknown country, but such is the desperate

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situation of the victims that they agree. Often, they and their families struggle to pay the fee demanded by the gang, but they are promised, falsely, that the wonderful new employment that awaits them will soon result in the repayment of the debt. But once that debt is incurred, then the victim and the victim's family are forever at risk of reprisals, often serious, if not deadly violence.

Not knowing the terrible consequences, the victim agrees to travel to this promised land. First of all, they must get there. Without lawful visas, it means that they must be smuggled into the new country. Journeys across the continents can take days with little, if any, food or water or even toilet facilities. Very often they will travel in complete darkness and complete silence to avoid detection.

As border controls improve, the smugglers have to be ever more inventive. Some of the people who are smuggled, do not even survive the journey. There have been some desperately sad cases where the victims, adults and even children, are trapped in hot, airless containers buried deep at the rear of lorries and those victims have died of suffocation and heat exhaustion before they reached their destination. How tragic to die in such a terrible way, but the gangs do not care. Their sole concern is that they have lost those they intended to use as slaves for their financial gain.

If the victims do survive the journey, their subsequent treatment may make them wish that they had not survived. The promised accommodation turns out to be utter squalor. Dozens of victims in one filthy room with no toilet facilities, far less a bathroom or shower, and no kitchen. Sleep may be limited to taking turns on flea infested mattresses on the floor with no blankets. The door may well be locked with a vicious guard dog outside. Any windows, and there may be none, are also likely to be locked. There is no escape, even in the event of a fire. For some victims, the accommodation is a disgusting old caravan or even a mere tent.

What about the promised employment? It was of course a mere fiction. The female victims may, if they are lucky, be put to work for long hours in nail bars. Their salary is almost always withheld in order to service their debt for being trafficked to this country. I describe them as lucky because it is much more likely that female victims will be forced to work as prostitutes, servicing dozens of men each day and being subjected not only to the most degrading sexual practices, but also to sexual violence. Again, the money earned by their forced prostitution does not go to the victims. Any pregnancy that results from the work will often be terminated by severe violence to the stomach causing a miscarriage, with no access to proper medical care. Some of these victims are barely more than children.

Female victims, whatever the work that they are forced to do, are frequently raped by the men who hold them captive. They are mere commodities to be used and abused as the criminals wish. They may even be sold on to other criminal groups. Male victims will usually be forced to work on building sites, on farms, in cannabis factories or perhaps in car wash businesses. The hours are long and the work hard. As with the females, payment for their work is minimal if at all. Violence is meted out to enforce discipline.

### **III. WHAT CAN THE VICTIMS DO?**

Essentially the answer is very little. Attempts to escape are dealt with by extreme brutality. Threats to injure or even kill the victim's family back in the home country are real threats. Even if the victims were able to escape, often they are too afraid to go to the police. Their experience of the police in their own country may not be a good experience. If their belief is that police officers themselves are members of criminal gangs, then they will have no confidence in going to the police in the country to which they have been trafficked. And they know that they entered the country illegally and so they are very likely to fear arrest and punishment for that alone. Their captors will of course have seized from the outset their passport or identity documents.

And so, the victims are trapped in a world of miserable servitude into which they were tricked or forced. They can see for themselves no route to escape. A brave few may escape. If caught by the gang, their punishment will be severe in order to intimidate the others and deter future escapes. In some instances, the punishment is death. The dream of a better life, a life of opportunity, the chance to earn enough money to support the impoverished family back at home – none of this materialises and yet they cannot leave.

#### **IV. HOW IS THIS CRIME DETECTED?**

The answer is, with very great difficulty and, sadly, often not at all. The victims are sometimes described as “hidden in plain sight”. We see them, but we do not see them. How do I know that the young lady who manicures my nails is not a victim of modern-day slavery or human trafficking? It would surely be rude if I were to ask her how much money she earns or what sort of accommodation she has. How do I know if the hard-working man who washes my car has chosen this particular job of his own free will? Even if I were to ask him directly whether he has been forced to do this work, it is unlikely that he would dare to tell me the truth because he risks severe punishment if he talks. How do I know that the fruit and vegetables that I buy from the supermarket have not been picked by victims of this vile trade in people? I do not even get to see those people, far less an opportunity to see whether they seem happy or not. Those who use the services of prostitutes are not likely to question the female on why she is there! For all I know there may be thousands and thousands of victims in my country alone, so we can only guess at the true number across the world.

Just occasionally a victim will break free and will go to the police or at least to some organization that will then contact the police on the victim's behalf.

Persuading the victim to tell the police exactly what has happened is not always easy. The victim is likely, for reasons I have already mentioned, to be very slow to trust the police. Even if they do trust the police, they may be afraid to talk because of concern for the consequences on their family at home. Even if that fear is overcome, they may not be able to name those responsible simply because they do not know their true identities or the location where they have been held prisoner.

Sometimes it is sheer good luck that the police manage to discover the plight of these victims. For example, they may receive intelligence that a cannabis factory is in operation in a particular location. When the police raid that address, they may find two or three young men at the property. Those men will then be arrested on suspicion of the illegal cultivation of cannabis. Or the police may raid a brothel and arrest all the sex workers they find there. The people arrested will be interviewed and it may be that they will explain exactly what has gone on and how they have been first tricked and then mal-treated. I say, it may be that they will explain because, sadly, often they do not, for all sorts of reasons, but usually fear and distrust of the authorities.

In my country every person who is arrested by the police is entitled to free legal advice at the police station and to be accompanied by that lawyer during the interview. A competent lawyer will look out for signs that the client may be a victim of human trafficking or modern-day slavery and will encourage that client to disclose to the police the true situation. Of course, not all lawyers will recognise the often subtle signs, especially when the client fails to trust completely even the lawyer. Sadly, there have been cases in my country where a person has been prosecuted for crimes, such as cultivating cannabis, without it ever being discovered that that person is in fact a victim of crime and not really a perpetrator of crime.

#### **V. PROSECUTING THE CRIMINAL GANGS**

It is incredibly difficult to obtain enough evidence to identify and prosecute the leaders of these gangs. They are very skilful in creating a distance between themselves and the victims. Generally, in my country the only way to convict them is by a combination of different sources of evidence, such as telephone tapping, bank records and surveillance. One important source of evidence is accomplices, that is, members of the gang, usually junior members, who can be encouraged or persuaded to give evidence against other, often more senior, members of the gang.

Whether out of loyalty to the gang or fear of reprisals, many gang members will never consider assisting the prosecution in this way. In order to encourage assistance, English Judges will almost always give a lower sentence to those Defendants who do give real assistance to the authorities. Sometimes the Crown Prosecution Service, which is the body which decides whether to charge a Defendant with a crime, will offer immunity from prosecution to an accomplice who is willing to assist the prosecution of more dangerous Defendants, but this course is exceptionally rare.

One of the problems which we have encountered is persuading a jury that the accomplice is a witness whose evidence can and should be believed. Juries understand well that the obvious motive of an accomplice when assisting the prosecution is to secure a lower sentence for him or herself. The danger, though, is that the accomplice may be motivated to lie either in order to suggest that his or her own involvement in the crime was not as great as the prosecution believed and therefore deserving of a lower punishment, or falsely to blame an innocent person of involvement in the crime in order to protect the real members of the gang.

When I prosecute using an accomplice, I always hope to have sufficient other evidence to indicate the guilt of the Defendant, so that I can say to the Jury that the evidence of the accomplice is supported by or confirmed by other evidence which is wholly independent of the accomplice. I also want to have the accomplice sentenced for his or her involvement in the crime *before* the trial of the Defendants against whom he or she will be giving evidence. That reduces, but cannot eliminate entirely, the opportunity of the defence to say to the jury that the accomplice has lied in evidence now in order to secure a lower sentence.

No gang member is going to take the real risk of turning against the rest of the gang by helping the police unless there is a substantial benefit for him or herself. Even then, the accomplice may be very selective in the assistance he provides. In one case in London the accomplice had been convicted of a gangland murder. He agreed to give evidence against a corrupt police officer, but he would not assist the prosecution of the man who was believed to be the main offender in the murder. The Court of Appeal approved the decision of the Trial Judge to reduce his sentence from a minimum term of 26 years' imprisonment to 21 years, but said that he would have received a much bigger reduction if he had given evidence against the main offender to reflect the greater level of co-operation and the greater risk of reprisal to which he would be exposed. An accomplice who is a professional criminal and who gives evidence against dangerous people and therefore puts himself at considerable risk as a result can expect a reduction in sentence of between a half and two thirds, which is very significant indeed.

The prison authorities need to take very great care in ensuring that an accomplice who assists the authorities is kept in a prison away from the other gang members. On release from prison, the police may need to put the accomplice into a witness protection scheme in order to secure the safety of the accomplice.

It seems to me that the only way in which we can encourage members of the gangs to assist is to ensure that they understand fully the benefits to themselves in terms of much lower sentences and the extent to which the police will go to provide them with a new identity and new life in order to keep them safe.

## **VI. THE CURRENT LAW ON SLAVERY IN ENGLAND AND WALES**

It is with great embarrassment and shame that I tell you that my country has only recently recognised the true plight of people who are the victims of human trafficking and modern-day slavery. Slavery was abolished in the United Kingdom as a result of the Slavery Abolition Act 1833. It resulted in freedom to over 800, 000 African slaves in the British colonies. In our naivety we believed that that was the end of slavery, but of course slavery is not limited to people from Africa, nor are all slaves physically kept in chains. There is many a white female from Eastern European countries, such as Romania, trafficked to England and forced to work as a prostitute. There is many a teenager from Far Eastern countries, such as Vietnam, trafficked to England and forced to cultivate cannabis. But for just under 200 years, we deluded ourselves that there were no longer any slaves in the United Kingdom. In fact, they were here, just hidden in plain sight. We were blind to their very existence.

It was not until part way into the current century that the British Parliament created a law to deal with modern day slavery. It was section 71 of the Coroners and Justice Act 2009, just one short section in a very long piece of legislation dealing with numerous other matters. The maximum sentence was 14 years' imprisonment. This section was a start, but was not sufficient and it was soon replaced by the Modern Slavery Act 2015, an entire piece of legislation devoted to this topic. The fact that this entire Act of Parliament is the first piece of law of its kind in the whole of Europe may sound impressive, but it is, of course, long overdue. Its aim is laudable – to prevent modern day slavery, to protect its victims and to prosecute the perpetrators.

The current British Prime Minister, the Right Honourable Theresa May, MP said this about the new law:

(It is sending) the strongest possible signal to criminals that if you are involved in this vile trade you will be arrested, you will be prosecuted and you will be locked up. And it says to victims, you are not alone – we are here to help you... We as a nation can be proud that today we are closer to consigning slavery to the history books where it belongs.

Welcome words, but has this legislation achieved its worthwhile goal? Before I answer that question, let me explain what the new law says. Section 1 of the Modern Slavery Act 2015 deals with slavery, servitude and forced or compulsory labour. It states that:

a person commits an offence if the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know the other person is held in slavery or servitude, or the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.

Consent by the victim is not a defence. That is a very important principle because vulnerable people, who have never known true freedom or happiness, may not themselves recognise that they are in fact victims of a crime. When deciding whether a person is a victim of slavery, the Court will consider factors such as, whether that person is a child, what the family relationships are, as well as any mental or physical illnesses that may make that person more vulnerable.

How does the Court decide if a person is held in slavery or servitude? A person is a slave if treated as owned by another person, if he or she is denied personal autonomy, if another person exercises the sort of power over him or her that might be exercised over an animal or an object. Servitude exists where the obligation to work is a result of coercion. It is sometimes described as “forced or compulsory labour”, there is the menace of a punishment and the work is not the exercise of free will. The coercion may be physical violence or mental.

Section 2 of the Modern Slavery Act 2015 deals with human trafficking. It states that a person is guilty of human trafficking if he or she “arranges or facilitates” the travel of another person with a view to that person being exploited. Arranging or facilitating travel includes recruiting the victim, transporting or transferring the victim, harbouring or receiving the victim or transferring or exchanging control over the victim. In other words, any form of participation in the operation is capable of amounting to the crime.

Exploitation covers a number of different situations. It includes, of course, slavery and forced labour. It also covers sexual exploitation and the removal of human organs from the body.

Usually laws made by the British Parliament apply only to conduct committed within the United Kingdom. Human trafficking is a global crime and therefore in order to deal with this global activity, section 2 of the Modern Slavery Act 2015 specifically extends beyond the borders of the United Kingdom. It is irrelevant where in the world it is intended to exploit the victim. If the Defendant is a national of the United Kingdom, then it does not matter in which country of the world the victim’s travel takes place and it does not matter where in the world the actual arranging or facilitating of the travel takes place. If the Defendant is not a national of the United Kingdom, he or she can be prosecuted in my country if any part of the victim’s travel takes place into, out of or within the United Kingdom or if any part of the arranging or facilitating takes place inside the United Kingdom.

As with the slavery offence, the consent of the victim to the travel is no defence, whether the victim is a child or an adult. You may consider it interesting that there is no minimum distance or duration of travel in the legislation.

An indication of just how seriously slavery and human trafficking are now regarded in the United Kingdom is shown by the fact that the maximum sentence on conviction is life imprisonment.

Let me give you one example of a prosecution in England for modern day slavery. The Connors family was a very large family of travellers (gypsies). The family business was roofing, paving and other small building works. They made a lot of money and lived very comfortable lives in beautiful homes, driving luxury cars, wearing nice clothes and so on. Their workers in the family business were vulnerable men, usually homeless, friendless, isolated and addicted to alcohol. They recruited those vulnerable men persuading, cajoling and even bullying them. They promised the men accommodation, food and wages. In fact, they were made to live in disgusting accommodation not fit even for animals. At most they were paid £10 a day despite having to work very, very long hours. Sometimes they were not paid at all. They had to work without proper equipment or proper clothes. They were subjected to violence and verbal abuse. They were told that they could not leave and that, if they tried to leave, they would face physical punishment. Some did try to escape, but were recaptured and forced to return. Various members of the family were found guilty after a trial and sent to prison.

This prosecution was a success, but a rare one because, sadly, the people who commit this type of crime are very difficult to catch. We all need to be much more vigilant in trying to identify victims of modern slavery and human trafficking, two of the most evil crimes it is possible to commit, crimes which attack the very essence of what it is to be human.