

Between ‘Modern Slavery’ and ‘Decent Work’: Responses to Labour Exploitation: workshop summary and key messages

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On 17 January 2023 the Bonavero Institute of Human Rights at the University of Oxford organised a workshop to consider different framings and responses to labour exploitation – the [negative framing of ‘modern slavery’ compared with the positive framing of ‘decent work’](#). A recording of the workshop is available [here](#).

Human rights as they relate to modern slavery are one of the central cross-cutting themes in the [Modern Slavery PEC](#)’s work. Importantly, a rights-based approach to modern slavery is not limited to the protection and rehabilitation of victims, and should reflect a wholistic understanding of human rights, including the right to work and the enjoyment of just and favourable conditions of work, as well as other human rights, such as the right to an adequate standard of living and the right to access to justice.

The workshop was set to explore the meaning - for legal standards, policy, and law enforcement - of using different conceptual frameworks to address work and labour exploitation.

The framework of modern slavery, as well as the broader term ‘labour exploitation’, emphasise the extreme forms of exploitation that society aims to abolish. While the framing of ‘labour exploitation’ often reflects an understanding of a [continuum of exploitation](#), the ‘modern slavery’ framework often makes a qualitative distinction between the most severe forms of exploitation – slavery, servitude and forced labour - that are or should be criminalised, and lesser violations of labour laws, such as long hours and below minimum wage, that should be addressed by different interventions.

The positive framing of ‘decent work’, on the other hand, is informed by ideals of how work, and perhaps society, should look. Decent work as defined by the International Labour Organization (ILO) is aspirational, and refers to employment opportunities, adequate earnings and productive work, decent working time, combining work with family and personal life, stability and security of work, equal opportunities, safe work environment, social security and social dialogue.¹

The first panel of the workshop introduced labour law and public law interventions, relying on both global standards and examples from the UK.

¹ ILO ‘Measurement of decent work based on guidance received at the Tripartite Meeting of Experts on the Measurement of Decent Work (September 2008)’ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---integration/documents/meetingdocument/wcms_115402.pdf accessed 8 September 2022;

Prof. [Deirdre McCann](#) (University of Durham) introduced the ILO framework on Unacceptable forms of Work (UFW),² and the use of the UFW model as a diagnostic tool, helping to identify elements and indicators of unacceptability. She explained how this model reflects the notion of a continuum between decent work and unacceptable forms of work, with elements of precarity and unacceptability along the continuum. This model is dynamic, and enables addressing changes in the nature of work over time and in different places, as well as challenges resulting from informality of work.³

Prof [Anne Davies](#)'s (University of Oxford) contribution focused on remedies and enforcement, through criminal law and labour law, and in individual proceedings initiated by workers, in comparison with collective action or enforcement by the state agencies. For the latter, she noted the lack of resources for effective enforcement, and the over-reliance on the existence of criminal offences to fix the problem, without sufficient attention to structural injustice.

[Elinor Buys](#) (University of Oxford) discussed how the UK government constructs modern slavery and responds to it, focusing on the potential of public procurement regulation to reduce modern slavery in supply chains. She explained how different departments carry out risk assessment, reflecting a 'thin' account of exploitation, focusing on risk rather than decent work. She noted the existing procedures measure performance through indicators, and tend to prioritise procedure over substance. Their potential is therefore limited.

The second panel of the workshop introduced perspectives from practice, and brought together representatives of law enforcement, people with lived experience of exploitation, and civil society organisations.

Neill Wilkins, the Head [of Migrant Workers Programme: Institute for Human Rights and Business](#) (IHRB) followed on the theme of a continuum of exploitation, noting the lack of attention to violations of workers' rights, such as the charging of excessive recruitment fees and payment of low wages, that, in most peoples minds, are not the common perception of modern slavery.⁴ He recognised that using the 'modern slavery' framework might make it easier for NGOs to attract funding and public attention to their work. Yet, he warned this framework might also result in an excessive focus on the most egregious forms of abuse

² Judy Fudge and Deirdre McCann, *Unacceptable Forms of Work (UFW): A Global and Comparative Study* (ILO 2015), https://www.ilo.org/global/publications/WCMS_436165/lang--en/index.htm. See also Deirdre McCann and Judy Fudge, 'A Strategic Approach to Regulating Unacceptable Forms of Work' (2019) 46 *Journal of law and society* 271.

³ Prof. McCann's work on Decent Work Regulation can be found here: <https://www.durham.ac.uk/departments/academic/law/research/decent-work-regulation/>
See also the ILO's 8th 'Regulating for Decent Work' Conference: <https://www.ilo.org/global/research/events-courses/rdw/8/lang--en/index.htm>

⁴ For an approach that pays attention to different aspects of vulnerability in the context of labour migration, see the Dhaka Principles for Migration with Dignity <https://www.ihrb.org/dhaka-principles/>.

with insufficient attention to the need to address decent work and labour rights more broadly.

Kate Roberts, head of Policy at [Focus on Labour Exploitation](#) (FLEX) focused on the UK context, and discussed concerns arising from the focus on criminal cases, while ignoring the role of policies, especially [migration policies, in leading to labour exploitation](#). Such policies include temporary visa regimes for domestic workers and seasonal workers in agriculture. She further explained there is an unrealistic expectation that exploited workers will be identified and protected through the National Referral Mechanism, and that the increasing [hostility towards victims of modern slavery](#) considered to be ‘gaming the system’ makes the protection of individuals less likely.⁵

Aké Achi, Founder and Chief Executive at [Migrants at Work](#), and himself a former child labourer, discussed the unique challenges faced by migrant workers, both documented and undocumented. Responding to earlier comments regarding the role of labour law and collective action, he shared examples where trade unions were unable to respond effectively to the vulnerability resulting from the intersection of immigration law and labour law, and the need for effective state mechanisms to respond to these situations. Such mechanisms should also address systematic factors creating vulnerability.

Frank Hanson, Head of Prevention and Partnerships at the [Gangmasters and Labour Abuse Authority](#) (GLAA), added further observations to the notion of a continuum between labour exploitation and decent work, drawing from the experience of the GLAA. He noted GLAA interventions in the area of regulation, as well as prevention. For the former, he noted the importance of combined enforcement campaigns. For the latter, workers lack education about their rights, that would address not just awareness of their rights, but also improve the confidence to claim them. He suggested workers should aspire to decent work and know they can secure it. The GLAA work to ‘train the trainers’, to deliver course that is taught by members of the community, targeting especially vulnerable workers to inform them about their rights at work.

Peter McAllister, Executive Director of the Ethical Trading Initiative (ETI), emphasised the context where exploitation takes place, including pressure on supply chains to provide cheaper products on faster deadlines, underfunding of enforcement mechanisms, and government failure to address exploitation. He suggested that the use of indicators should also use international standards and guidelines such as the [UN Guiding Principles on Business and Human Rights](#) (UNGPs). He further pointed out, from the ETI’s perspective, a commitment to the decent work agenda includes recognition of workers’ representation

⁵ For FLEX’s publications and reports, concerning (among other topics) migration policies, responses to labour exploitation, and the identification of victims, see: <https://www.labourexploitation.org/publications>

and agency. This commitment notwithstanding, he suggested that the softer language of ‘decent work’ might lose the focus and sharpness of the ‘modern slavery’ language.⁶

Several **common themes and questions** arise from the different contributions:

1. **Language matters.** The terminology introduced or discussed included labour exploitation, modern slavery, unacceptable forms of work, and decent work. The language we use, as scholars and practitioners, matters for whether we prioritise labour law, public law, or criminal law interventions. A key question on the use of language is whether we should start from the framing and move to the intervention, or do we start with the relevant intervention and identify the appropriate language.
2. **Structural factors** noted by the speakers include migration and employment policies, and visa regimes. A key question on structural factors is whether the state is merely failing to address instances of modern slavery, or is involved in perpetrating exploitation.
3. The **continuum of exploitation** was recognised by different speakers as important framing for the phenomena of labour exploitation – as the continuum of unacceptable forms of work, between decent work and severe labour exploitation. Nonetheless, concerns were raised that the framing of labour exploitation or modern slavery as a continuum might lose the focus and strong condemnation power of the ‘modern slavery’ label. A key question on the continuum of exploitation is what is the best way to use it, and whether it can allow different forms of intervention.
4. Identifying appropriate **indicators** and using them to assess situations of labour exploitation and violations of workers’ rights were raised by several speakers. The use of indicators is related to the notion of a continuum, in identifying different elements of labour exploitation (or unacceptable forms of work), and recognising the violation of labour rights is often a matter of degree that might change over time. Indicators may be easier to apply in practice than broad and vague terms such as ‘exploitation’ or ‘decent work’. A key question regarding indicators is whether some hierarchy should be recognised between different indicators, attributing more importance to certain conditions or violations.
5. **Hope.** Different points from the participants, the speakers and other participants at the workshop, raised the question of whether we can hope to see better progress in addressing modern slavery and labour exploitation in the near future. This point was raised in the context of the UK – in connection with the perceived withdrawal from a previous commitment to protecting the victims of modern slavery, the persistence of visa regimes creating vulnerability, the slide towards unacceptable forms of work in various dimensions, and insufficient resources for effective enforcement. It was also raised in the global context, looking at the development of international standards and frameworks, but also at the pressures on global supply chains with the

⁶ The ETI Base Code, reflecting international labour standards, can be found here: <https://www.ethicaltrade.org/eti-base-code>. The ETI website includes additional resources on modern slavery: <https://www.ethicaltrade.org/search?text=Modern+Slavery> and on human rights due diligence in line with the UNGPs: <https://www.ethicaltrade.org/issuesdue-diligence/resources-human-rights-due-diligence>

regulatory challenges they raise. Different points during the discussion addressed the potential role of new technologies and innovation, and whether transparency could help address exploitation in the Global North and South. A key question is whether the most effective response would be through innovation, or through a commitment to structural changes identified in the past.