



SURVIVORS BEHIND BARS

THE DETENTION OF
MODERN SLAVERY
SURVIVORS UNDER
IMMIGRATION POWERS
(2019-2020)

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“The brutal truth is that modern slavery will
endure only as long as it is profitable...

and it will only remain profitable **as long
as businesses and governments are prepared to
look the other way.”**

Prime Minister, Boris Johnson MP
UK Government Modern Slavery Statement (Prime Minister’s Forward)
14 July 2020

“Government does not agree that victims
[of modern slavery] should automatically be
granted leave to remain for 12 months.”

“Your letter also raises particular concerns about the
use of detention [on trafficking victims].
**The Government does not have an absolute exclusion
from detention for any particular group.”**

Victoria Atkins MP, Minister of Safeguarding,
in correspondence to After Exploitation and 50 expert signatories
7 January 2021

KEY FINDINGS

Data obtained from the Home Office, via Freedom of Information (FOI), indicates a growing number of individuals being detained in prison-like settings, despite having indicators of modern slavery. Data within this report explores the scale of this practice in a five-year period since the Modern Slavery Act 2015 was introduced.

SLAVERY STATUS + DETENTION

Trafficking indicators

Between 1st January 2019 and 30th September 2020, 4,102 individuals who engaged with the UK's modern slavery framework (the National Referral Mechanism, or 'NRM') were held in prison-like settings under Immigration Powers. Despite a significant overall reduction in the use of detention due to the Covid-19 pandemic, 969 people with trafficking indicators were still detained in 2020 alone.

Potential victims

Potential victims of trafficking have received acknowledgement as having 'reasonable grounds' in a trafficking claim, and in principle are eligible for "support and assistance". However, **2,914** potential victims were detained within this period.

Confirmed victims

Currently, **194** people detained in this period have been recognised by the Home Office as 'confirmed' victims, in addition to the **1,457** potential victims forecast to be confirmed survivors when they receive their final NRM decision.

DETENTION GATEKEEPING

In **2,805** instances, individuals were only referred into the NRM after time spent in detention, meaning that suspected survivors were not referred when they first came into contact with safeguards intended to prevent 'inappropriate' detention. In **938** further cases, suspected survivors were only referred into the NRM after being released from detention and into the community.

GENDER

658 women and **3,444** men with trafficking indicators were detained during this period. Although this gender discrepancy is reflective of the wider detained population, recent changes to the settings in which women are detained may impose a new barriers to disclosure.

BACKGROUND

Whilst the Government acknowledges modern slavery is a “particularly heinous crime”^{1,2,3} and a “scourge” to be “tackled”, within its press output^{4,5}, the Government this year announced that it would not introduce a blanket ban on the detention of trafficking survivors⁶.

Survivors of modern slavery are at increased risk of long-term depression, anxiety and Post-traumatic stress disorder (PTSD)⁷, suicide attempts⁸, health complications as a result of sexually transmitted infection⁹, and dependency or withdrawal due to the frequency with which traffickers use alcohol and drugs as tools of coercion¹⁰. Yet, data released in this briefing outlines **4,102** cases where detainees were held in prison-like settings, despite trafficking indicators, since 2019 alone. Within academia, the practice of immigration detention has been subject to numerous systematic reviews, many outlining that people seeking asylum in detention are more likely to suffer PTSD, long-term depression and anxiety than those whose claims are processed within the community¹¹. The Government’s growing practice¹² of detaining victims and potential victims of trafficking is amplifying the existing vulnerabilities of the survivor population.

Dr Frank Arnold, a member of MEDACT and a clinician providing independent examinations within detention, previously outlined to us the prevalence and source of PTSD amongst trafficking victims encountered in prison-like settings:

“To take a trafficked person who is no longer under control of their abusive exploiters, and subject them to detention, is to substitute one form of powerlessness for another.”¹³

Frequent detention of survivors may also act as a deterrent amongst those currently held in settings of exploitation. Survivors may fear engaging with authorities, or reporting a crime against them, due to the realistic threat of detention. Currently, the Government has refused to introduce an absolute ban on detaining survivors, and has also ruled out introducing a basic form of 12-month leave for recognised survivors¹⁴. As a result, victims who engage with the authorities are not guaranteed protection from detention or deportation.

In response to our briefing, Anti-Slavery International’s Kate Roberts highlights the ways in which detention is increasingly used as a tool to coerce and control victims: *“Survivors of trafficking regularly tell us that their exploiters use the threat of immigration detention to control them.”*

Roberts adds that people who have been trafficked may be “*locked away*” instead of being recognised as a victim of crime, with their access to justice and compensation replaced with “*the prospect of immigration removal*”¹⁵.

Data on the detention of trafficking victims was previously denied to MPs, on the basis that there was “no central record” capable of cross-referencing modern slavery and immigration outcomes¹⁶. However, subsequent investigations by After Exploitation have evidenced that such data is held by the Home Office in a reportable format, and we were able to obtain these figures via a series of Freedom of Information (FOI) requests¹⁷.

A G R O W I N G P R O B L E M

The most recently available data as of 2020, obtained by After Exploitation, showed that the practice of detaining potential victims of modern slavery has been increasing year-on-year. The figures show the number of people, recognised by the Home Office as potential trafficking victims, before, during, or after detention more than doubled from 410 to 914 between 2017 and 2018. By 2019, the annual detention of potential trafficking victims had tripled (n=1,256).¹⁸ These figures show that safeguards, intended to recognise people too vulnerable for detention, were frequently failing to spot indicators of trafficking and safeguard against wrongful detention.

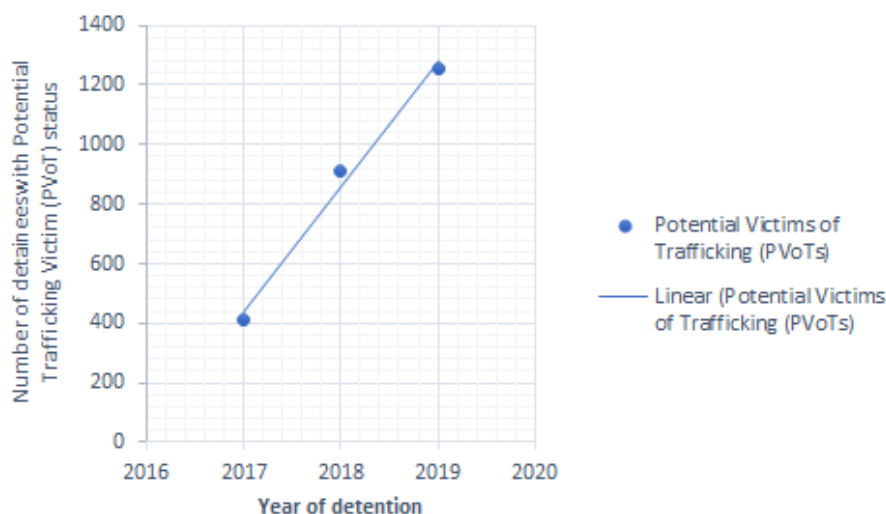


Figure 1

DATA

Follow-up Freedom of Information (FOI) requests, submitted by After Exploitation and Women for Refugee Women, illustrate that 4,102 individuals with trafficking indicators have been detained since 1st January 2019. The below data is subject to limitations, which we have outlined^a. However, these figures serve a function for advocacy and policy work in the absence of transparent Government reporting on survivor outcomes^{19,20}.

DETAINEES WITH
TRAFFICKING INDICATORS

For the purposes of this briefing, we define individuals with trafficking indicators as those who have been referred to the National Referral Mechanism (NRM) as suspected victims of modern slavery. The NRM is the UK's sole framework for recognising and supporting survivors of modern slavery and, in order to be referred, an individual must be identified as having trafficking indicators by 'First Responders' such as the police, Home Office or a specified charity²¹. Home Office guidance advises First Responders that "there will be some cases of exploitation that do not meet the threshold for modern slavery", so the seriousness and conditions of exploitation is under consideration by a First Responder even before a referral has been made²². Therefore, even individuals who are later 'refused' by the NRM have, at some point, been recognised by front-line staff as having at least some indicators of trafficking.

The below data highlights 4,102 instances in which people referred to the NRM were also detained between January 2019 and September 2020. Despite the most recently available detention statistics indicating an overall decrease in detention, as a result of the pandemic²³, **969 individuals with trafficking indicators** were held under Immigration Powers in 2020 alone.

^a Data covering 1 January 2019 - 1 December 2020 was requested, however, the Home Office has provided data ending 30 September 2020, meaning that all months in Q4 are absent from analysis. The original request asks for data on latest National Referral Mechanism (NRM) decisions disaggregated by other outcomes. For example, this format would allow us to ask 'how many potential and recognised victims were detained in 2019 vs 2020?' to understand how the pandemic has impacted safeguarding. Alternatively, this would allow us to investigate how many survivors are 'knowingly' detained despite having an NRM status and how many are referred after detention. We plan on raising the need for 'broken down' data, as a point of clarification, since this was requested in our original Freedom of Information (FOI) request and will upload responses to Afterexploitation.com. However, the use of FOI requests is no replacement for regular, consistent reporting by Government on the outcomes facing survivors of modern slavery and trafficking victims, including cases of wrongful deportation, detention, and failures to support. This is because consistency between methodologies in FOI responses are lacking, and these statistics are not assured to the level of Official or National Statistics. We renew our calls for regular reporting on long-term outcomes facing survivors and potential survivors of modern slavery. We also note a potential inconsistency in calculations, as the total in the final table (n=4361), relating to NRM claim timing, does not align with the totals of all other outcomes recorded during this period (n=4,102).

YEAR OF DETENTION START (for those detained between 1 Jan 2019 - Sep 2020)	NRM-REFERRED DETAINEES (with any NRM outcome before, during or after detention)
2017	6
2018	263
2019	2,864
2020	969
	4,102

Figure 2

POTENTIAL VICTIMS IN DETENTION

After a referral into the NRM, Home Office decision makers assess whether a claimant has ‘reasonable grounds’ in a trafficking claim. Those who have been referred by a First Responder and are subsequently successful at reasonable grounds stage are recognised as a ‘potential victim’²⁴. Potential victims are eligible for “assistance and support” under both the Modern Slavery Act 2015 and international law²⁵. However, since 1st January 2019, 2,914 potential victims eligible for support were held in prison-like settings either due to weaknesses in the mechanisms designed to detect individuals too vulnerable for detention, or through knowingly failing to acknowledge a pending NRM claim.

NRM OUTCOME (most recent decision)	NRM-REFERRED DETAINEES (detained between 1 January 2019 and 30 September 2020)
Awaiting outcome	49
Positive reasonable grounds	2,914
Negative reasonable grounds or conclusive grounds [2]	753
Positive conclusive grounds	194
Withdrawn	102
Other	86
Void	4
	4,102

Figure 3

CONFIRMED VICTIMS IN DETENTION

At the final NRM stage, decision makers decide whether claimants have 'conclusive grounds' in a trafficking claim. Those with a positive conclusive grounds decision are 'confirmed' victims of trafficking.²⁶

Whilst figure 3 highlights a relatively low percentage of detainees with trafficking indicators as having been 'confirmed' as trafficking victims (n=194), we hold that this number is still significant. Within this data, 50% of final stage decisions are positive or negative (n=194 for both outcomes). For this reason, we project that if 50% of current potential victims are later confirmed, in-line with current trends, 1,457 additional confirmed survivors will have been detained during this period in addition to the 194 already confirmed. The projected number of confirmed victims detained since 2019, estimated at 1,651, is deeply concerning.

'REJECTED' VICTIMS IN DETENTION

18% (n=753) of those detained with trafficking indicators were refused a positive outcome in their trafficking claim either before, during or after detention. It is not clear from the disaggregating of figures what percentage of 'refusals' takes place before, during or after detention. Whilst 'refused' claimants are not officially recognised as 'potential' or 'confirmed' victims of trafficking, we still refer to these individuals as part of a wider group with 'trafficking indicators' because they have received an NRM referral. We also acknowledge the NRM refusal rate is disproportionately high amongst non-UK nationals²⁷, so it would be unhelpful to completely omit this demographic from wider analysis on the basis of NRM recognition alone.

OTHER OUTCOMES

The remaining 5% of outcomes amongst those detained with trafficking indicators include withdrawn claimants (2%), those logged under an 'other' outcome (2%), claimants still awaiting a 'Reasonable Grounds' decision (1%) or void outcome (0.1%).

CONTRIBUTING FACTORS

A high-profile independent review into the detention of vulnerable people, commissioned by the Home Office and conducted by Stephen Shaw, found that the “release of [trafficking] victims was not automatic, but was reliant on independent evidence that could be difficult to obtain”²⁸. A trafficking charity and First Responder, The Poppy Project, told Shaw that their clients were frequently detained, “despite clear indicators during a screening interview... no referral has been made into the NRM and detention has been maintained”²⁹.

ADULTS AT RISK

In response to the Shaw Review, the Home Office replaced provisions within its Enforcement and Immigration Guidance with the Adults at Risk (AAR) policy in 2016. Mechanisms within the policy had the stated aim of achieving “a reduction in the number of vulnerable people detained”³⁰.

However, evidence shows that the practice of detaining vulnerable people, including victims of gender-based violence, domestic abuse^{31,32}, and trafficking^{33,34} has increased since the measures were implemented.

The Home Office introduced a Detention Gatekeeper (DGK) function as part of the wider Adults at Risk (AAR) policy, which is supposed to identify individuals too vulnerable for detention. DGK assesses whether detention decisions are “proportionate” and is supposed to identify instances where “individuals may be at risk of harm in detention due to any vulnerabilities”³⁵. However, what little data we can publicly access on DGK indicates it rejects referrals for detention infrequently. During a House of Lords debate in September 2020, it was stated by the Government that “Since 2016, the gatekeeper has rejected more than 2,300 referrals for detention.”³⁶ Given that, prior to the pandemic, around 25,000 people entered detention every year³⁷, this number of rejections appears very low.

TIME NRM REFERRAL WAS MADE	NRM-REFERRED DETAINEES (detained between 1 Jan 2019 and 30 September 2020)
Before detention	625
During detention	2,805
After detention	938
	4,368

Figure 4

Data provided to us by the Home Office in figure 4 illustrates that, in **2,805** cases since 1st January 2019, the Detention Gatekeeping function failed to recognise individuals with trafficking indicators who were only referred into the NRM after having spent time within detention. In **938** further cases, individuals with trafficking indicators were referred to the NRM after having been detained and released into the community.

Policy and Research Coordinator at Women for Refugee Women, Gemma Lousley, explains:

“The Detention Gatekeeper does not proactively screen for vulnerability. Thus, it relies solely on information that the Home Office already has on file to assess if someone is vulnerable.

This means that people who have not already had sustained contact with the Home Office – for instance, those who are arrested during immigration raids, or who have not previously lodged asylum claims – are highly unlikely to have any vulnerabilities identified in the decision to detain.”

VOKE'S STORY

‘Voke’ was detained in Yarl’s Wood for nearly eight months in 2017, but only recognised conclusively as a victim of modern slavery in 2020. While in Yarl’s Wood, she was referred into the National Referral Mechanism and given a negative ‘reasonable grounds’ decision. Three years later, the Home Office reversed this decision and recognised her as a confirmed survivor of trafficking. Contributing to this briefing, Voke said:

“The Home Office didn’t ask me what had happened to me before they detained me. Then, when I told them in detention, they dismissed what I said. They treat you as a number, not a human being.

They just want to send you back to your country, to meet their deportation targets.

When I finally received my positive decision I thought: why have you only decided to believe me now? My story is the same as it was when I told you years ago.”

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‘RAID-TO-DETENTION’ PIPELINE

Qualitative analysis by Women for Refugee Women, reviewing the legal files of women from China trafficked to the UK, outlines instances in which victims were identified as part of raids made on the basis of trafficking but were detained rather than referred for support. *From One Hell to Another* (2019) found that in four of the 14 cases analysed, survivors and potential survivors were identified in settings including massage parlours and brothels without any referral into the NRM being made³⁸.

The ‘raid-to-detention’ pipeline is well-documented. In 2018, then-Immigration Minister Caroline Nokes MP confirmed in written answers to Paul Blomfield MP that a wide-scale police operation, intended to tackle exploitation in “risk industries”³⁹, had resulted in the detention of potential victims.

“Of the 85 persons identified during Operation Magnify as Potential Victims of Modern Slavery or Human Trafficking (PVoTs), 77 were detained”⁴⁰

The lack of pre-NRM legal advice, or safehouse provision, at the point of identification by First Responders is a significant barrier to facilitating NRM referrals. Introducing guaranteed provisions which allow suspected survivors to access their rights, immediately after leaving exploitation, would be a crucial way of ensuring detention is not used as a matter of routine. In a submission to the United Nations Special Rapporteur on Contemporary forms of Slavery, The Human Trafficking Foundation and non-profit coalition, Anti-Trafficking Monitoring Group, noted:

“Without any pre-NRM support it is unclear how anyone in exploitation would have a chance to disclose abuse in a raid situation when they will be scared, not know their rights in the UK and not be sure who they can trust.”⁴¹

The Government has renewed its 2017 commitment to roll out ‘Places of Safety’ which will provide survivors with up to three days’ immediate advice and support⁴². However, British Red Cross, the Human Trafficking Foundation, the Anti-Trafficking Monitoring Group and the Anti Trafficking and Labour Exploitation Unit (ATLEU) note that core principles must be adhered to in order to ensure the scheme is a success once it materialises.

The cross-sector group stresses that it is vital for the scheme to provide consistent and early access to legal support, meeting of immediate needs, and confidential data management of victims.⁴³

GENDER

Since the start of the pandemic, there has been a notable drop in the number of women held in immigration detention⁴⁴. Yet this overall fall has been met by new developments which threaten to make women in detention more vulnerable. In August 2020 Yarl’s Wood Immigration Removal Centre (IRC) was ‘re-purposed’ from a women’s detention centre into a short-term holding facility for men arriving in the UK by boat⁴⁵. However, women have subsequently been detained in Yarl’s Wood as a mixed-gender setting since at least October 2020⁴⁶. Other women have been detained in small units within Colnbrook and Dungavel IRCs, which predominantly hold men⁴⁷. This shift in practice has marked a ‘new normal’ in which women are detained in spaces designed for men, seemingly without conducting an Equality Impact Assessment⁴⁸.

In addition to the existing barriers to identification within the Detention Gatekeeping function, detention centres which predominantly hold men are likely to bring additional disclosure challenges for trafficked women. A 2018 independent inspection of Dungavel IRC highlighted that risk and need screening interviews for those arriving in detention were “not comprehensive and did not take place in private”⁴⁹. Women who have been subjected to trafficking involving sexual exploitation are highly unlikely to disclose such experiences during a screening interview that is not held in private, where men – including both male staff and men who are being detained – may be able to hear what they are saying.

The Government has not made any public assurances around the ways in which predominantly male detention centres will modify their practices in order to ensure women’s specific experiences of exploitation and violence are addressed. Rule 35 reports, completed by doctors within detention, are the main mechanism for responding to vulnerability once people have been detained. However, the Home Office has not confirmed whether women detained within male-dominated settings will have access to doctors with experience of recognising and reporting female vulnerability.

Women are also being detained under Immigration Powers in prisons. Throughout lockdown in 2020, Women for Refugee Women supported several women who had not been identified as survivors of trafficking during detention in prison, only securing an NRM referral after weeks or months in Yarl's Wood. The use of prison as a detention setting makes disclosure almost impossible by design, as there are no legal advice surgeries available to detainees.

A survey of immigration detainees supported by BID, conducted during the pandemic, found that only eight out of 53 (15%) people detained in prison, across both recorded genders, had accessed advice from an immigration solicitor.⁵⁰

Whilst a comparatively small number of women with trafficking indicators (16%) are being detained compared to men (84%), the 21-month total of 658 is still a significant figure due to the detention estate's inability to consistently identify or safeguard women who have suffered gender-based abuse and trafficking.

GENDER	NRM-REFERRED DETAINEES (with any NRM outcome before, during or after detention between 1 Jan 2019 and 30 September 2020)	
Female		658
Male		3,444
		4,102

Figure 5

Figure 5 demonstrates that men made up a significantly larger proportion of NRM-referred detainees since January 2019 than women. This is largely representative of the disproportionate frequency with which men are detained (81% to 86%).⁵¹

However, it is crucial to note that men are likely to have suffered violence and sexual abuse related to their exploitation⁵², and some specific challenges face practitioners in securing disclosure from men where certain forms of abuse, such as sexual violence, are particularly stigmatised⁵³.

The detention of 4,102 individuals with trafficking indicators since 2019, including 3,444 men, should be enough to bolster political will to address this traumatic practice.

POLITICAL INACTION

On Anti Slavery Day 2020, a letter written by After Exploitation and signed by over 50 survivor groups, legal experts, academics and NGOs called for modest but vital changes to protect those subjected to exploitation⁵⁴. The cohort asked Government to address the risks posed to survivors as a result of detention, calling for “an absolute ban” on the detention of individuals referred into the NRM.

However, in response, the Minister for Safeguarding outlined that “the Government does not have an absolute exclusion from detention for any particular group”, including trafficking victims. Within the same correspondence, the Minister confirmed that Government did not support measures within the cross-party Modern Slavery (Victim Support) Bill, which would provide survivors of slavery with a minimum of 12 months’ support, safe housing, and immigration protection where applicable. Campaigners were disappointed with the Government’s rejection of “minimal” trafficking protections, including a guaranteed duration of safe housing for those who are UK nationals.⁵⁵

This lack of immigration security locks victims in a Catch 22: Government claims; victims are only deported when they have “*exhausted all options and are refusing to leave*”⁵⁶, but will not introduce any dedicated options to allow victims to stay.

RECOMMENDATIONS

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SAFEGUARDING AGAINST DETENTION

The Government must introduce an **absolute ban; on the detention of suspected trafficking victims**, with immediate effect. The Government must also commit to **moving away from the use of immigration detention completely**, and to implementing community-based alternatives to detention.

SUPPORT AND PROTECTION

The Government must issue a guaranteed **minimum of 12 months’ immigration security**, and **safe house** provision of at least the same duration, for both UK and non-UK victims.



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