



## The Judicial Implications of the UK Modern Slavery Act 2015

---

*The RT Hon the Baroness Butler-Sloss GBE  
Judge Christopher Prince*

My colleague, Judge Prince, and I will share this talk. We want to tell you about a new UK law, the Modern Slavery Act which came into force in 2015.

I retired over 10 years ago from being a judge but am now an independent member of the House of Lords, our Senate, and had a lot to do with the wording of the new law. I am lawyer turned legislator. So I am going to tell you about the main parts of the Act.

Judge Prince, who sits as a judge in the far north of England trying serious criminal cases, will tell you about the impact of the Modern Slavery Act upon the judiciary in England and Wales trying the human trafficking cases and the judicial approach to the victims who give evidence in those cases. Scotland and Northern Ireland have separate jurisdictions but the Modern Slavery Act is also part of their laws.

The Modern Slavery Act brings under one umbrella all the different parts of human trafficking and slavery, sexual exploitation, servitude and forced or compulsory labour. The consent of the victim is not a defence for the human trafficker if the offence is proved. We apply Article 4 of the Human Rights Convention. The Act increases the imprisonment of human traffickers to life. It extends the jurisdiction of the UK courts to those who traffic or enslave overseas. There is a significant increase in prosecutions but still a small number compared with the number of identified victims.

The court may make a reparation or compensation order to the victim. So far, to my knowledge none has yet been made.

A police officer or senior immigration officer may detain a vehicle, ship or aircraft if the person who is the owner, charterer or has it under a hire purchase order, has been arrested for one of the serious offences, and an order for its forfeiture can be made by the court.

In certain circumstances a senior government minister may require a police officer or enforcement officer to stop, board, divert and detain a British ship where there are reasonable grounds to suspect an offence under the Act has been committed. A foreign ship may be detained if the home state asks the UK for help in doing so.

The Act creates new prevention orders which may be made if the defendant has been convicted of an offence under the Act. The purpose is to prevent any further trafficking offences and to protect victims from that offender. It includes prohibitions within and outside the UK and a prohibition on foreign travel for up to 5 years. So far in the first 12 months there have been 14 orders, including 4 Slovaks convicted of trafficking offences and sent to prison. Prevention orders have been made preventing them after their release from prison from going to the area in Slovakia where the victims were recruited and the Slovakian authorities have agreed to enforce the English court orders.

The Act also has created new slavery and trafficking risk orders where there is evidence that the defendant has acted in such a way that he may commit a slavery or trafficking offence and to protect victims. These orders set out prohibitions on the defendant including foreign travel for up to 5 years. 5 Risk orders have been made so far including against those whose cases have not yet been heard and those where there is insufficient evidence to prosecute.

The most important part of the new Act is the creation of the independent Anti-Slavery Commissioner and our Commissioner is at this Summit. I believe he will tell you about his role. I am delighted to be a member of his advisory panel which is chaired by the Bishop of Derby, who is a member of the House of Lords.

Another important part of the Act is the section which protects victims.

If the victim can show he/she was compelled to act as a slave, such as a Vietnamese boy locked into a cannabis farm in London, it is a defence to the crime he has committed and he should not be prosecuted. There is the presumption that a person under 18 is not guilty of the offence.

There are special measures for victim witnesses and victim support which Judge Prince will tell you about.

The Government has pilot projects providing child victims with child trafficking advocates which are required under the Act.

There are special provisions for overseas domestic workers who have been treated as slaves.

The last important part of the Act is the requirement for large companies to make an annual slavery and human trafficking statement to provide some transparency on the supply chains.

We have, in my view, good legislation and now we have to make it work. Our system of identifying victims is not as good as it should be, particularly for those who come to the UK from outside the EU. The government is looking to see how to improve the system. There is a lot of work to be done to improve the way we deal with the perpetrators of these shocking crimes and the protection of their victims who come to or are within the UK. But we can now improve the way our Courts and our judges deal with these issues.

### **His Honour Judge Prince**

As Lady Butler-Sloss has stated, I shall be speaking as to how in England and Wales the judicial approach to the conduct of criminal trials involving vulnerable victims has changed radically.

The legislature and judiciary have introduced measures to enable vulnerable witnesses to give their best evidence.

We have recognised that if victims of crime can give evidence at trial without distraction, fear or anxiety, the quality of their evidence will be optimised and justice will more likely be achieved.

An incidental benefit is that if a criminal justice system is respected by the citizens it serves as fair and humane in its treatment of victims, victims are more likely to come forward to seek justice.

In any trial involving a young or vulnerable victim a trial judge in England and Wales may order that any combination of the following apply:

That the Judge and advocates remove their wigs and gowns  
That the public gallery be cleared  
That the witness shall be permitted to give evidence in court from behind a screen so that they cannot see, and are not visible to, the defendant.  
That the witness shall be permitted to give evidence by live television link from a room other than the courtroom.  
That the witness evidence for the prosecution shall consist of a pre-recorded DVD interview undertaken with a police officer just hours or days after the victim first contacts the police.  
That the witness cross-examination by the defence shall be by pre-recorded DVD conducted soon after their first interview with the police.  
That a professionally trained intermediary shall accompany the witness throughout their evidence to advise the court when questions are inappropriately complicated and to assist the witness to understand questions and carefully formulate their answers.  
That the defence shall submit in writing all questions they wish to put to the witness – the trial judge will then edit and limit these appropriately  
That the duration, content and manner of delivery of questions will be strictly controlled by the trial judge.  
That aggressive questioning will not be permitted.  
That leading or complex questions will not be permitted.

This modern approach to the treatment of vulnerable victims has recently advanced further with the introduction of what we refer to as “remote link sites”. The first site opened in Durham in July 2015. It is typical of proposed future similar sites. The site is some miles from the court building. It is in a quiet semi-rural location. It provides a comfortable, calm, reassuring and supportive environment with trained staff, soft furnishings, neutral décor, with tea (tea because we are in England), coffee, hot chocolate, biscuits and computer games for young persons.

The site has three core elements: Firstly, a medical examination and scientific evidence gathering suite. Secondly, comfortable interview rooms equipped with cameras to record victims evidence to DVD for use in evidence and, thirdly, a live camera television link to the courtroom.

By way of a typical example case: a female victim who telephones the police will be taken to the site for medical examination and then driven home or to a place of safety. A day or two later she will be collected and taken to the site where she will be interviewed and her evidence recorded onto DVD. Some weeks or months later on the day of trial her pre-recorded evidence DVD will be played to the jury and she will return to the site – with which she is now familiar and where she feels at ease – to answer questions over the live television link to the trial courtroom.

We have therefore arrived in England and Wales at the position where vulnerable victims of crimes such as slavery, trafficking and sexual abuse can participate fully in the criminal justice process without having, as in the past, to enter a hospital, a police station or a court building.

The sites have the further advantage that they can link to any courtroom in the country so victims do not need to travel from safe accommodation to attend at trials.

Those most likely to be victims are generally younger than the judiciary. This younger generation is perfectly accustomed to and comfortable with communicating face to face via social media. It may be radical to some members of the judiciary to receive evidence in this fashion; it is rarely radical to victims.

The official evaluations of the measures have been universally positive.

Those of us who often conduct trials involving vulnerable witnesses see how very effective these measures are on a daily basis-they work.

Having explained the measures we have introduced to assist vulnerable victims to present their best evidence at trial, I should add that if a defendant pleads guilty or is convicted following trial, victims are invited to read aloud, or submit in writing, statements describing the impact the offence has had on them. For a variety of reasons, including assisting recovery and knowing that their suffering has been recognised by the court, victims very much welcome this opportunity. In determining and passing sentence the sentencing judge will always take account of and refer to the impact on victims.

The Lord Chief Justice of England and Wales Lord Thomas of Cumingiedd asked that I tell you of the work undertaken in our jurisdiction on behalf of vulnerable victims. Our judiciary is very proud of what has been achieved to date. .

If in your respective jurisdictions you have introduced measures which I have not mentioned I should welcome learning of them in the time this summit affords us for informal discussions so we may consider adopting them in England and Wales. Similarly, I would be pleased to discuss in more detail the measures I have described.

That great Italian author Primo Levi wrote of victims in *If this a man*

*If we speak they will not listen to us, and if they listen, they will not understand".*

Victims have been speaking to us in courts for years. We have always listened. But perhaps only now that victims can tell their stories fully and clearly are we ensuring they are not just heard, but also, understood.