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Modern slavery – but let us remember the trafficked

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This piece is published as a response to the LSE Human Rights Blog September/October 2015 series on Modern Slavery, and points out some potential complications associated with the widespread use of the term 'Modern Slavery'.

In March 2015 the [UK Modern Slavery Act](#) received Royal Assent and became law. In the wake of the Act, efforts to combat trafficking have been renamed as measures fighting 'modern slavery' (see for example the government's Modern Slavery Strategy, the [Modern Slavery Campaign](#)). Nowhere in the Act, however, is the term 'modern slavery' defined or explained. Using such a broad yet undefined phrase risks conflating diverse practices of exploitation with the far narrower concept of chattel slavery in the public imagination, and poses risks to the correct identification of trafficked persons.

What is 'modern slavery'? Slavery is defined by the League of Nations 1926 Slavery Convention as 'the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised'. It does not readily include the broader definition of human trafficking, defined by an [EU Directive](#) as:

The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Perhaps 'modern slavery' has become an all-purpose hybrid classification into which all forms of personal exploitation fall? The law likes certainty, clarity and precision. The term 'modern slavery' is none of these things.

Why might the law use 'modern slavery' to refer to practices like human trafficking? As suggested by Orlando Patterson, the scholar of slavery writing in the 1980s, 'there is nothing notably peculiar about the institution of slavery. It has existed from before the dawn of human history right down to the twentieth century, in most primitive of human societies and in the most civilized'. The nature of exploitation has changed from that of transatlantic chattel slavery. Yet it is unclear whether slavery has changed its legal meaning. The 1926 definition has not been revised and is still used in the courts. The core prerequisite of slavery – the exercise of "any or all of the powers attaching to the right of ownership" – remains. When the 1926 definition is used today it indicates that slavery is still imagined in the absolute terms of chattel slavery.

However the characteristics of chattel slavery do not always reflect the experiences of trafficked people, who may be exploited for different purposes and in different degrees through a myriad of coercions. We thus have to ask: If we bring human trafficking under the umbrella of 'modern slavery', what happens to the trafficked person whose experience does not resemble chattel slavery?

Consider this case: a woman from Country X travels to country Y under the pretense that she will receive a large sum of money for his kidney, but on completion of the operation she is not rewarded and is forced to return to his country. In this example there are no attributes that would normally be attached to the right of legal ownership as required by the 1926 definition of slavery. Nevertheless, the woman from Country X was recruited, transported, and physically exploited. She was not enslaved, but she was trafficked.

What are the consequences of the widespread use of the term 'modern slavery'? Will survivors of human trafficking, forced marriage, debt bondage and other forms of personal exploitation fall through the cracks because their experiences are not associated with traditional images of chattel slavery?

It is crucial for politicians and law enforcement agencies, as well as the public at large, to recognise the difference between key terminologies. Human trafficking may amount to slavery in some instances, but does not always. The title of the Modern Slavery Act risks enforcing stereotyped experiences and suggests a hierarchy of urgency in aiding victims along the lines of traditional conceptions of slavery.

This discussion is timely. We must understand the terminology we use as it makes its way from law and policy to everyday conversation. We need to be aware of what type of abuse we are referring to in order to fight it.

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