

Modern Slavery, Victim Identification and the ‘Victimized State’

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Resistance to entering the UK government’s modern slavery victim identification mechanism is widespread and part of normal practices of state evasion that shape the lives of large numbers of insufficiently documented people. This article provides evidence of the role practitioners play in producing referrals into that mechanism in spite of such resistance and in spite of the harms caused by the identification mechanism itself, which is integrated into the immigration system. Though referrals are driven by practitioners, those entering the mechanism are said to be ‘abusing’ the system. This dynamic is considered in relation to a common trend of the liberal state, in which state practices are externalized onto others, while it claims to itself be the victim of violence.

KEY WORDS: modern slavery, human trafficking, National Referral Mechanism, undocumented people, immigration system, the state

INTRODUCTION

The centrepiece of UK anti-slavery work is the National Referral Mechanism (NRM), the system supposedly meant for identifying and supporting ‘victims of modern slavery’. Those suspected of being victims are referred into the system, where they receive an initial reasonable grounds decision and await a conclusive grounds decision at a later point, which states whether on the ‘balance of probabilities’ it ‘is more likely than not’ that the individual is a victim of human trafficking or modern slavery (Home Office 2019: 53). Support services are outsourced to the third sector. The NRM is commonly criticized for failings, including discrimination, insufficient provisions and legal support, delays on conclusive grounds decisions and those decisions carrying no rights and support ending too soon and suddenly (ATMG 2014; 2018; Human Trafficking Foundation *et al.* 2017). Yet it is also claimed that more victims are being identified and protected (UK Parliament 2021) and that the NRM provides ‘successful delivery of support to all adult victims of modern slavery in England and Wales’ (Salvation Army 2018: 2). In short, the NRM is presented as a flawed but positive system.

This article challenges two common narratives about the rising numbers entering the NRM. The first is the positive assertion that it demonstrates more ‘victims of modern slavery’ are being

identified and supported. I show that the NRM is better understood as an arm of the UK immigration system. I describe the immigration system and the part the NRM plays in it, and the extensive lengths that undocumented people go to, to avoid being incorporated into that system. In recent years, the NRM has expanded to include more UK nationals and minors, as 'county lines' has been incorporated under the banner of 'modern slavery' (Koch *et al.* 2024), but this is entirely in keeping with the expanding creep of immigration controls, which ultimately subject many citizens to the same harms as those who are legally rendered 'unlawful' (Griffiths and Yeo 2021). Yet it is still predominantly foreign nationals in the system and the NRM has particular effects on those without status, so this article will focus on the NRM as immigration control.

The second assertion is the similarly prevalent claim that the NRM is being 'abused' by those entering into it. I contextualize this within a discussion of the way state violence is legitimated by consistent claims of victimhood made by the state itself. Its violence is externalized, typically onto its recipients and it justifies itself by claiming to be the victim of those it victimizes. I then draw on doctoral research to demonstrate that it is practitioners who manufacture referrals into the NRM, rather than referrals being engineered by those who are referred. As is common, these state actions are reframed as actions perpetrated by others against the state. I critique the empirical claims that the NRM is being 'abused', and then finish by demonstrating that the very design of the NRM made claims of 'abuse of the system' inevitable from the start. While state violence is externalized onto the trafficker, I explain that victimhood is never fully bestowed onto the 'potential victims' of modern slavery, and therefore the political power of victimhood, which the state persistently claims for itself, is never shared either. As a result, victim identification does not provide protection from the harms of the state, and evasion of the NRM continues to be a sensible form of self-defence.

THE IMMIGRATION SYSTEM AND THE NRM

The immigration system is often conceptualized as a process by which illegalized people are identified, processed and either deported or granted citizenship. In reality, there is a substantial 'deportation gap' between the numbers considered 'eligible' for deportation and the numbers that are actually removed (Gibney 2008). Similarly, the protracted asylum process does not always lead to situations of life-long citizenship, but to a limited status that will require further claims. The immigration system is therefore not an apparatus that separates people for citizenship or deportation, but a growing industry of private companies that keep thousands of people in indeterminate states. For instance, most people incarcerated in immigration detention centres—euphemistically named 'removal' centres—are not deported, but eventually released with no improvement in their rights (Vanderbruggen *et al.* 2014). Similarly, the asylum system has been turned into a process of intentional impoverishment, perpetrating slow violence on those held in a sustained state of limbo (Mayblin 2020). While these state practices prevent people from working and establishing their lives, private organizations are given vast government contracts to run asylum services and detention centres. Keeping people in this system is very financially rewarding (Gammeltoft-Hansen and Nyberg Sørensen 2013). So while the immigration system is presented as a process that leads to freedom inside the nation-state or freedom outside of it, the bureaucracy is less about processing people out of the system and more an intentional way of controlling and subordinating people for private profit.

Discourse on the NRM rarely situates it within this context. Doing so exposes how the NRM increases the reach of the immigration system, harming more lives and extending the length of time people are subjected to it. Practitioners who would not want to intentionally facilitate immigration enforcement objectives, are more willing to 'spot the signs' of modern slavery—which largely emphasizes foreignness and poverty—and to make referrals for those people to

be 'supported and protected'. Furthermore, when NRM referrals are made, asylum decisions are put on hold until the final NRM decision is made, sometimes years later. While charities receive hundreds of millions of pounds to run 'support services', the effect of this extra bureaucracy is to delay an asylum decision that can already take years to be resolved. The experiences of slow violence endured in the asylum system are therefore extended by the NRM.

Many people in the NRM describe the stress of being stuck 'in limbo', unable to act for themselves, which they experience as pointless and punitive, making them feel 'worthless and unwanted when they could have been contributing to the wider community' (Gallagher and Featonby 2019: 42, 67). Even those who do receive leave to remain in some form can continue to experience this limbo, unable to properly settle, as such leave is often parcelled out in portions (Mayblin 2020). The NRM provides no relief from the 'protracted temporariness' that exists for undocumented people outside of the NRM, which increases vulnerability, as workers are more compliant with their employers because they depend upon them for visa renewal (Anderson 2013: 127). Nor does it protect them from detention centres and deportation. Thousands of people who engage with the NRM are incarcerated in immigration detention centres, while others are deported (After Exploitation 2019a; 2021). While many believe the NRM can benefit asylum claims, the government is very clear on this point—it does not (Gower 2016). Yet as this article will show, negative NRM decisions can serve to de-legitimize asylum applications. The façade that the NRM is not part of immigration control was further marred by a decision in 2021 to make an 'Immigration Enforcement Competent Authority' (a decision maker on NRM cases) (Detention Taskforce 2021). This was introduced into the NRM with no consultation and was only announced on the same day it was implemented (Bulman 2021), in flagrant disregard for the enduring criticism that immigration factors affect NRM decisions.

For hundreds of thousands who live in the United Kingdom with insecure or undocumented status (Walsh 2020) life is stressful and challenging. Everyday life involves constant decision-making over whether an activity is worth the risk of state actions. Many choose to avoid public places, relationships and health care services and to work illegally and keep moving accommodation, all to survive and avoid the harms of immigration systems. Concern about state threats means undocumented people often prefer destitution to government support. This wariness extends to larger voluntary organizations that are perceived, often rightly, to be affiliated with the Home Office (Crawley *et al.* 2011).

While anti-slavery campaigners narrate resistance to entering the NRM as the result of corrupt law enforcement in other countries or threats and lies from traffickers (CSJ 2013), most resistance to the NRM is better understood as being entirely reasonable and in keeping with evasion of the immigration system. While 'modern slavery' discourse wishes to displace state violence onto 'the trafficker', those approached are not convinced and nor should they be. The confusion and chaos of the NRM should be understood as a deliberate tactic of the state (Waite *et al.* 2023). The issue is not that 'potential victims' fail to see the difference between the NRM and immigration control, but that many first responders fail to see (or care about) the sameness. During the NRM, there is little trust in institutions, political processes or in those who are seen as being in positions of authority. Such distrust and unequal power dynamics can result in people being unwilling to disclose exploitation or seek support (Hynes 2022). In fact, in 2023, nearly 5,000 Duty to Notify reports were sent to the Home Office. Since 2015, public authorities in England and Wales have had a 'duty to notify' the Home Office of anyone who is suspected of being a victim of modern slavery but who refuses to enter the NRM (Home Office 2024a). We know, therefore, that there is significant resistance to entering the NRM (and such figures do not account for situations in which frontline workers choose not to submit such reports, nor those who would have refused to be referred

to the NRM if they had known about the referral, as will be discussed). The NRM is integrated into the wider immigration system, with thousands who are referred also spending time in detention centres ([After Exploitation 2021](#)) and the NRM expanding the reach and extending the length of the impoverishment imposed by the asylum system ([Findlay forthcoming](#)). As such, resistance to being entered is reasonable. This article therefore considers not why people are resisting entering the NRM, but why the numbers entering the NRM are rising ([Home Office 2024a](#)), given so much understandable resistance. Before describing the practices of practitioners in producing referrals, I turn to the issues of victimhood and state violence to help explain the contradictions found in the NRM.

THE VICTIMIZED STATE'S MONOPOLY ON VIOLENCE

Undocumented people are not alone in resisting the controlling power and violence of state systems. Those who the state system seeks to dominate are frequently resistant to such efforts ([Scott 1985](#)). As such, even though the most famous definition of the state foregrounds the claim to a monopoly on the *legitimate* use of violence ([Weber 2009](#)), some argue that the state only needs the population to be sufficiently malleable to its policies; to accept rather than legitimize its control ([Giddens 1985](#)). But legitimation has always been foremost an internal matter. All violence has a lawmaking character to it ([Benjamin 2007](#)). It is legitimizing *itself* in its instantiation. Even if state violence is not regarded as legitimate by those who experience the violence, it can still be regarded as such by those who enact it. Keeping that legitimation alive is still integral to the maintenance of control. The function of ideology, as the jurist [Robert M. Cover \(2007: 297\)](#) observed, 'is much more significant in justifying an order to those who principally benefit from it and who must defend it than it is in hiding the nature of the order from those who are its victims'. Therefore, the incorporation of undocumented people into the immigration system does not require the construction of ideologies that are compelling to those who are incorporated. And to the extent that bureaucratic violence is hidden ([Graeber 2015](#)), it does not require direct legitimation from the public either. Rather, state (and quasi-state) actors involved in the reproduction of the violent system are those who need to be sufficiently convinced of the legitimacy of their own actions.

How state actors legitimize their actions is important and it is relevant to consider how rarely the state system actually makes the *claim* to a monopoly on legitimate violence. Most governments of the ancient world or Middle Ages would not have made this claim and even if they did, they would not have had the bureaucratic apparatus needed to make it seem even moderately plausible ([Graeber and Wengrow 2022](#)). And while liberal societies have always maintained a role for the state, liberal philosophy has never resolved the contradictions between key principles of liberal freedom and the nature of the state. The monopoly of violence relates to sovereignty (etymologically related to 'a ruler'), but since the French Revolution, sovereignty is widely believed to belong to 'the people' (even if there is no agreement on quite who 'the people' are) ([Wallerstein 2011](#)). If 'the people' have become the ruler—the entity that can stand both inside and outside the juridical order ([Agamben 1998](#))—the logical consequence would be to acknowledge 'no ruler', the very definition of anarchism, which rejects the state entirely. As such, the state is on shaky ground and does not tend to justify its violence by claiming a priori legitimacy, but instead defends the violence on more contingent grounds. For instance, when police violence is presented as 'necessary', such a discourse is not banking on legitimation a priori, but instead making a case that the violence is in service to something of significance to 'the people'. At the same time, the state claims that the actual source of the violence sits outside of the state, among those who have rendered the state's actions 'necessary' ([Butler 2020](#)). While attempting to maintain a monopoly on

violence, the state is not properly defined, as Max Weber's words suggested, by its *claim* to this. Rather, the state frequently 'externalizes its own violence onto its target, rediscovering it as the violence of the other' (Butler 2020: 9). Hence, the folk devil of crime discourse is constructed in the image of those the state system abuses most. Far from *claiming* authority over violence as an emperor or patriarch might, the liberal state's monopoly on violence is achieved by rationalizing and disowning its violence.

The state boosts the 'legitimacy' of its violence, by claiming to *be* the primary victim of illegitimate abuse. By claiming victimhood, the state is provided with moral and political legitimization in its endeavour to consolidate power (Chen 2018). Hugo Grotius (2005 [1625]), legal theorist and 'father of modern international law', noted that the state can continuously exercise self-defence or retaliation, for as long as injuries and damages continue to be received. Yet when state violence is reframed as violence done against the state, it has the power to make its 'victimization' and violence continuous. The discourse of victimhood strongly relates to that of 'security', which has risen in the context of liberalism and which, Agamben (2001) suggests, has become the 'sole criterion of political legitimization'. The state constructs its picture of vulnerability by making the state a proxy for 'the people', so that any defence of the state is tantamount to defending its subjects. But domination and the dominated are not the same, and given that, in capitalist societies, the state system constructs and enforces an unnecessary scarcity endured by citizens (Hickel 2020), equating the vulnerability of the state apparatus with the vulnerability of society is a common but flawed conceptual unification.

Furthermore, the identification of actual victims is consistently used to reaffirm the state's victimization, and the political power that victimhood should afford the actual victim is claimed by the state. In modern legal proceedings, the conflict between perpetrators and victims has been stolen by the state (Christie 1977). The retributive tendencies of 'criminal justice' ignore the needs and rights of the victim, centring the state as the victim of concern (Zehr 2005). As the harms of state violence only make clearer, people are not criminalized for causing harm to another human being, but for doing so without legal sanction. The punishment is for disobedience. They have wronged the state. Unlike the continuous power of legitimate violence that victimhood gives to the state, Grotius (2005 [1625]: 416) notes that an individual's right of defence is 'momentary, and ceases as soon as one can apply to a Judge'—they have abdicated the power of victimhood to the state. The state's recognition of a person's victimhood is therefore a temporal recognition of suffering, and what is more, a recognition that allows the state to claim a fuller victimhood and the power that comes with it, perpetuating violence accordingly.

Therefore, both in its oppressive political activities and in its recognition of victimhood within oppressed groups, the state centres its own victimization. Those who recreate the state system's bureaucratic apparatus, do so by validating the vulnerability and victimhood of the state above all else. My contention is that this helps to explain the wide participation in a bureaucracy of harm where 'identifying and supporting victims of modern slavery' is supposedly the issue of primary concern. The immigration system oppresses undocumented people accompanied by a narrative of state vulnerability. 'Modern slavery' does not denounce this narrative, but overlays it. Liberals wish to be more empathetic than the government's hostile environment allows for but have little desire to go up against the state system and have not dismantled the ideology of state victimhood in immigration discourse. For those existing in the apparatus of the government immigration system, 'modern slavery' does nothing to address the contradictions between human wellbeing and state violence but does provide a more compassionate narrative to accompany their compliance. However, as will be discussed, the result of not addressing the fundamental problem of state violence, is that the 'modern slavery victim' is quickly turned back into the 'abuser' of the 'victimized' state.

METHODOLOGY

This article is based on doctoral research (Findlay 2023) interviewing people in and around the NRM. The research was premised on critical realist philosophy, which includes the perspective that observations imply transformations (Bhaskar 2016). This was combined with a bottom-up political approach to social change, and an emergent view of social structure, in which structure is understood as an emergent consequence of the organization of subset parts (Elder-Vass 2010). The research interviews were theoretically informed. Substantial resistance to entering the NRM has already been recorded (Hynes 2022; Home Office 2024a). The mechanism is integrated into other arms of immigration control: many going through the NRM spend time in detention centres and some are deported (After Exploitation 2019b; 2021). The NRM accumulates information about those who are referred that can be used by the police (Home Office 2024b). And denial of the right to work while in the NRM draws people into destitution (Sharp and Sedacca 2019), expanding and extending the 'slow violence' of the asylum system (Findlay forthcoming). Given these factors, the primary focus was not on explaining the resistance, which appeared reasonable, but on explaining how and why more and more people were entering the NRM each year despite these factors. A charity facilitated interviews with two participants who had been through the NRM, and even though both had been confirmed as 'victims of modern slavery' by the Home Office, neither knew what the NRM was and therefore did not specifically recall the circumstances of their referrals. The facilitator said that others she spoke to about the project also did not know what the NRM is. The normality of this was affirmed in the practitioner interviews as well. This informed a decision to increase the number of practitioner interviews and cease requesting interviews with those who had been referred to the NRM, focusing all the more on the functioning of the bureaucracy itself: how and why is it being sustained by practitioners? Most participants were recruited through heterogeneous purposive sampling (Etikan *et al.* 2016), so as to include the diversity of the NRM within the research. People were approached directly wherever possible, rather than through their organizations. Two participants were introduced to me by other participants. Ethical clearance was given by the University of Salford prior to the interviews. Anonymity and confidentiality were clarified with participants and interview questions were removed if participants wanted to avoid certain topics.

Participants were told that the study was an analysis of the NRM and that practitioners of affiliated organizations would be interviewed. Some exchanges prior to the interviews involved summarizing the questions that would be discussed, which included what their job entailed, the role they played in the NRM, their own experiences and evaluations of the NRM and explaining that the research was exploring how the NRM is being sustained, what purposes it serves and its impact on those who are referred into it. Prior to the interview, I said as little as possible regarding my perspective on the NRM, which evolved over the course of the interviews.

20 in-depth, semi-structured interviews were conducted with: two people who had been through the system, two NRM decision makers, two police detectives, two border force officers, two people in social work roles in local councils, two NHS doctors involved in MSHT training, a legal aid solicitor, an advisor to migrants, a senior staff member at the Salvation Army (who hold the government care contract for adults in the NRM), a senior advisor at the Modern Slavery Helpline and four people directly involved in support work, one of whom then worked in a police training and networking role. Practitioner interviews focused on the values, opinions and practices of the participants. Where contradictions were noticed during the interview, these would sometimes be presented back to the participant in a question later on in the interview, for them to elaborate on (Hollway and Jefferson 2000). All practitioner interviews were conducted through online video calls or phone calls.

The analysis followed a broadly thematic approach (Braun and Clarke 2006). I transcribed all interviews, making extensive notes and attaching code labels to the text, including both latent and semantic themes. Some codes were produced during early theory development, while others emerged during interviews and analysis. Analysis began while interviews were still being conducted, and written discussions of the interviews were produced as part of the analysis process (Braun and Clarke 2006).

The sample size is not large but this is not uncommon for qualitative interviews and I only stopped conducting interviews because I concluded the research had reached saturation. Both interview design and analysis were shaped by theoretical perspectives on the NRM, which in turn shaped my interpretation of findings. Lastly, as discussed in the introduction, I did not focus the research on either minors or UK nationals. Consent is not required for minors, and participants affirmed that the NRM support was not targeted at these groups, who could access support through other routes. That said, some of the harms of the NRM are being experienced by UK nationals as well, including more control being exerted over them in the context of structural exclusion and poverty (Koch *et al.* 2024). This matches a wider trend in immigration control, to expand and incorporate citizens and 'lawful' migrants as well (Griffiths and Yeo 2021). It therefore still makes sense to understand the NRM in its historical and political context, which has been inextricably linked to an intensifying hostile environment for migrant people.

ROLE OF PRACTITIONERS IN PRODUCING REFERRALS

Having established the normality and reasonableness of resistance to entering the NRM in the first section, this section evidences three ways in which practitioners produce referrals into the NRM in spite of such resistance.

A lack of information

The first identifiable practice for how people referred into the NRM are successfully entered into the system, is the lack of information provided to them on what the NRM is, what effect it can have or what they are even being referred into. Legal aid solicitor Joy, for instance, said: 'I don't really think they see a distinction between the NRM and any other part of the Home Office or the police or the government'. Support worker Megan spoke about people reaching her safe house after entering the NRM, and like others, relates this lack of understanding to a lack of information provided to people:

people I work with... have no idea what the NRM is... they don't know they've been entered into it. People- police often get them to sign forms, or people like, even charities that have entered them in get them to sign forms... to consent, to say they're being entered into the NRM, but without a translator, or they're so confused, or traumatised at the time, they don't even know what they're signing. It happens like, I'd say, I've experienced like at least 50% of people don't know they're being entered into it. In theory you have to consent, you have to sign something, sometimes we don't even have people that have signed stuff. They arrive to us, they've been entered in, the NRM are contacting us, being like, 'they haven't signed this, you need to get them to sign it'.

As mentioned in the methodology, people can go through the whole NRM process without knowing what it is, as my interview participants did. And Carmen, a Border Force officer, did not herself think consent was needed. Such a lack of consent and even information that people are being entered into the NRM is perhaps the most obvious way in which the tension between undocumented resistance and government objectives is overcome in the expansion of the

NRM. This was compounded by language barriers, but numerous participants believed it was common that those entering the NRM did not know what they were entering into.

The lack of information provided to people was also indicated by information that participants revealed over the course of their interview but which no participant said they or others communicated to people approached about entering the NRM. Support workers said that long-term consequences depended on nationality and exploitation type and that the Salvation Army refused housing to those with drug and alcohol issues or closed cases early because a client cannot be contacted, for instance, if they do not have a phone. This picture is supported by data provided by the [Salvation Army \(2021\)](#) on 2,855 people who were referred during 2020–21 but who did not enter support services. In 1,771 cases they could not contact the person concerned or did not receive a response. A further 715 were not considered eligible to receive support. Nobody mentioned stating anything like these revelations to people when speaking about entering the NRM. Given everything they do say (discussed in the coming sections) it is hard to imagine that it is at all common for people entering the mechanism to be provided with such pertinent and candid information.

Furthermore, this communication is taking place within the same constraints as other immigration controls. Practitioners were discouraged from speaking negatively about the Home Office in Megan's charity, including pertinent information about the NRM experience:

I think other caseworkers were afraid of telling them about how difficult it was going to be and how the Home Office are not on your side really at all. And we were encouraged by our managers and people above us to like, not speak badly of the Home Office because we got some funding from them, so we weren't meant to.

To sum up, some people are being referred to the NRM without being consulted, others do not understand what they are entering even if they are told something about it, important shortcomings and consequences of NRM support appear to often go uncommunicated, and the pressure to avoid relaying criticisms of the government further impinges on the amount of information provided.

Misinformation

Secondly, there is evidence of substantial misinformation being provided to people approached about entering the mechanism, which presents the NRM as more positive and less negative than it actually is. One claim was that the NRM has nothing to do with immigration controls. Katie (support worker and police networking role) said:

I think because there is a massive fear about being deported, and it's about explaining to them that, you know, that, that if they are in the NRM that caseworker, you know they, the government aren't just going to turn up, take them, and deport them back.

Likewise, Chloe, a support worker, said: 'so I explain that it allows them to be assessed, and whilst they're under the NRM they're not going- they're not able to be detained'. Evidence produced by *After Exploitation*, a data mapping project on the NRM, shows that this is false. Immigration powers are used to detain thousands of people referred to the NRM ([After Exploitation 2019b](#)). This is not just a de facto situation—the government makes it clear that being in the NRM does not guarantee exemption from detention ([Home Office 2021a](#)).

Similarly, Anatsa, who works with asylum seekers, was under the misapprehension that being an asylum seeker protects people from being detained, when in fact, in 2018, 51 per cent (12,637) of people entering detention were asylum seekers, including those who were detained

before and after the determination of their claim (AIDA 2018). But Anatsa would tell her clients that the two systems were unconnected:

Ok, I would explain to them that this has got nothing to do with that. It's not about getting deported, or anything. This is separate, it's just a [unheard word] or a framework for the government to identify potential victims of modern slavery and ensuring that you get the support that you need.

Andrea, a support worker, also made such assurances to her clients: 'I've always had to say to my clients as well what they do have to understand is that the NRM and the Home Office, they are completely separate organisations'. This is entirely false. The NRM is situated within the Home Office, with asylum and NRM decision processes both managed in the same place.

In contrast to the claim that the two systems were unrelated, people are also told that the NRM can help them receive leave to remain in the United Kingdom. Megan, a support worker, described interacting with people who had been given such assurances: 'I've come across a lot, they've been told ... this is here to like help you stay in the country'. Megan also, alongside other participants, claimed that receiving a positive decision in the NRM could help in a person's asylum claim. Home Office guidance outlines the specific factors that contribute to the granting of discretionary leave, and a conclusive grounds decision is not one of them (Gower 2016). In contrast, as will be shown below, the NRM can harm asylum claims.

These examples suggest that misinformation is significant in practitioner beliefs and in what is communicated to people who are approached about entering the NRM. The direction of this misinformation is not towards a negative presentation of the NRM. On the contrary, it involves blanket refutations of real negatives and outright false claims of positives about the NRM.¹

Coercion

The third practice to note which enables referrals into the NRM in spite of the reluctance of undocumented people is coercion. Firstly, government rules may themselves flout data protection laws. Consent is required to access services within the NRM and consent must be both informed and given in the absence of coercion. The former is contravened, but so is the latter, given that the absence of coercion includes:

consent given under the threat of non-treatment or lower quality treatment... When, for example, trafficked persons have to consent to the exchange of their personal data with third parties in order to get access to assistance services, this cannot be considered as freely given consent (Wijers 2013: 3).

Furthermore, practitioners employ coercive practices to refer people into the NRM. These included threatening them with immediate alternatives. When discussing practitioners ('especially like the police') and their responses to people who might be entered into the NRM, Andrea, a support provider, said:

especially if they're not somebody from the UK, because it is actually quite difficult as to understand what to do with them, because for- so for example, let's say if they refuse to go into the NRM, and they are illegally residing in the UK, the only other thing is to report them to Home Office.

Here, non-intervention is not regarded as a possibility and therefore those approached must either enter the NRM or be reported to the Home Office. It is common in trafficking narratives

¹ Participants also spoke of 'selling' the NRM to people as a good thing or 'advertising good outcomes for people', and de-emphasized common, negative long-term consequences.

for the trafficker to ensure compliance by threatening that they will reveal the 'illegality' of the victim to authorities (Home Office 2019). Such a threat from traffickers was alluded to by a few participants. Yet practitioners are employing the same threat to produce compliance with a referral. Sandra, a local council worker, believed this threat motivated a lot of referrals:

what I think they understand of it [the NRM] is that they see it as not salvation but more like potentially a, a threat to them. I think... I also wanted to point out that a lot of those that probably go through the NRM are those that are probably picked up initially by the police... they don't feel like they have much choice. It's either do that or be referred to, straight to... immigration. So... I believe that a lot of them that do accept to go through the NRM would in normal... circumstances if they weren't put on, on the spot would probably refuse to do it.

As well as such immediate threats, people are also threatened with negative consequences on their asylum applications if they refuse to enter the NRM. Joy, a legal aid solicitor, explained this:

So the Home Office would say, 'Oh, well you're a victim of trafficking, you're saying you've been trafficked, why don't you want us to investigate that? Because you don't want us to investigate that... why should we believe you?' And that is generally the point that the Home Office takes, so I try and explain to them [those potentially being referred] the Home Office perspective on that, and say that the NRM at the end of the day, if you don't enter it, it will affect their credibility... and the Home Office will be less likely to take anything they say seriously.

I asked, 'Is that just if they say the word "trafficking", or if the Home Office look at their case and think that it looks like trafficking?' and she replied, 'Both'.

This is very significant. The criteria for being a 'potential victim of human trafficking' are low, with large numbers of referrals coming from within the Home Office. So clearly there is a very inclusive view of what should be referred into the NRM that is far wider than what will ultimately be recognized as 'genuine victimhood' in conclusive grounds decisions. This helps to explain why, contrary to popular assumptions, having trafficking-like experiences in one's story can have a negative impact on somebody's asylum claim and experiences with the government. It can negatively impact their asylum claim because even if they do not identify as a victim of trafficking, the fact that something in their story approaches trafficking means a government official may insist they enter the NRM and distrust their credibility on anything if they do not. When their NRM case is eventually rejected, their asylum case is blighted by that decision, as decision maker Nicola described:

if you're saying you're a victim of sexual trafficking and that gets rejected and then you're claiming asylum because you believe that you'll be killed and raped by someone in Afghanistan, then I'm going to be like, well you're not really a victim of trafficking, if this proven all to be false, then how can I believe the rest of your story, which isn't always the case, because the person could have a genuine fear of something else.

Nicola's words reveal that NRM decisions can negatively affect asylum claims, even when the asylum claim is based on different things to the NRM case.

Contrary to the beliefs of some, positive conclusive grounds do not, in and of themselves, benefit asylum claims. And yet while many will be labelled 'abusers' of the NRM for entering, not entering, once they have been initially identified, can negatively affect their asylum claim. In colloquial terms, they are damned if they do and damned if they don't. While such a double

bind may be surprising to those invested in the anti-slavery discourse of the NRM as a pathway for emancipation, it is less surprising given that British citizenship, as Imogen Tyler (2010: 61–2) argues, has been 'designed to fail' specific groups and populations: 'British citizenship has become a mechanism through which democratic freedoms are retracted from individuals and communities as wealth and power is concentrated in the hands of the social and political elites.'

Having described the way practitioners drive NRM referrals, I will now articulate and critique the arguments that suggest empirical evidence shows those entering the NRM are actively 'abusing' the system. I will then conclude by demonstrating that these rationalizations of 'abuse' are ultimately consequences of how the state's claim to victimhood—the 'abuse of the system' narrative—was intentionally enabled from the start by the very design of the NRM.

BELIEF THAT THE NRM IS BEING 'ABUSED'

The government persistently claims that the NRM is being 'abused' by people entering the mechanism (UK Parliament 2017; Home Office 2021b). The language of 'abuse' regarding migrant people and government support systems is not new. In the 1990s, there was a sharp rise in asylum applications in the first 3 years of Blair's government, which the Conservative opposition presented in the strongest terms as the 'organized abuse' of Britain's asylum provisions by economic migrants (Gibney 2008: 155). The Home Office has failed to provide any evidence in support of its claims that the NRM is being 'abused' (Lindsay 2022; Wilding 2023), yet the former Home Secretary Priti Patel affiliated this proclaimed 'abuse' of the NRM with the most harrowing kinds of abuse, by beginning the list of those she claimed were 'tak[ing] advantage' of the mechanism with 'child rapists' (Home Office 2021b), implicitly equating the system's vulnerability with that of a child.

Claims that the NRM was being 'abused' were found implicitly and explicitly in my interviews. The 'abuse' perspective was made most strongly by Tom, a detective inspector. The attitude is centred on the notion that the people being referred are themselves the primary drivers of their own referrals, and on the belief that the NRM offers more than it does. Rather than being a means to abuse the person being referred, the NRM is itself seen as vulnerable to abuse from people who are not 'genuine victims'. Tom said:

I think that the NRM is open to abuse, because of what it offers it's open to so much abuse. And it's regretful that...the number of people that, that put in applications for the NRM, and I think a lot of those are done in conjunction with immigration applications... the majority that are disingenuous I think, and that puts the whole process into disrepute in some way.

This attitude is in keeping with the 'economic pull factor' perspective, in which the nominally humanitarian concerns of asylum systems have shifted to being intentionally difficult so as to avoid inducing more applications because of welfare incentives (Mayblin 2020). This perspective was found in other interviews, mostly in milder forms than in Tom's, but was a very significant presupposition for what participants believed the NRM had to be like.

This article has already addressed problems with this view. The NRM is a tool of immigration control. The abuse perspective is based on the much-criticized 'worthy victim' mentality (O'Brien 2013), arbitrarily separating those who receive concern from those who do not. Claims that the latter are 'abusing' the NRM are premised on prioritizing a statist paradigm over the interests of subjugated people. The implication is that people should only engage with the state system on the terms the government lays out. But solidarity with undocumented people can mean supporting their evasion or navigation of state systems in whatever way benefits them, regardless of how that fits into statist rules and objectives. Finally, it is practitioners, not the

people who are referred, who dominate the referral process, which contradicts the claim that the people who are referred are calculating in their attempts to access the NRM.

But what of those cases where people do appear to want to enter the NRM? Consider the idea that organized crime groups are selling the NRM as part of the facilitation of illegalized migration. Tom again:

We're aware of organised criminal groups in parts of Europe who, [as] part of the package they sell to unlawful immigrants, people who want to gain entry unlawfully, will be the NRM as part of that package if that makes sense.

This kind of thing is also discussed by a participant in Aliverti's (2020: 1129–30) ethnographic research with police and immigration staff:

As we headed to inspect a series of businesses alleged to hire workers without papers, he mentioned in passing that a few days ago his team dismantled a 'cannabis farm' and arrested Vietnamese men 'tending the plants'. Incredulous, he added: 'We found a manual with all the instruction in English of what they need to tell the police if they are encountered: "I am a slave, I have been brought by a trafficker etc etc"'.

Once again, even if one understands this as outright lies on the part of undocumented people, it need not come with any negative 'abuse' evaluation among those who seek to support undocumented people over and against the oppressive actions performed against them by the state system. And given the extensive resistance to and ignorance of the NRM, there are no grounds for thinking that such plans are based on good knowledge of the short or long-term consequences of what the NRM does to people. But there is also reason to challenge the 'abuse' conclusion that Tom is using such information to argue for. Aliverti's evidence reveals that people are encouraged to use the slave/trafficker narrative when approached by the police. This does not mean, however, that people are seeking to gain anything from the NRM. Julie, Salvation Army, also alluded to Vietnamese people as those who are rarely trying to access support:

some of the trends that we've seen for example, I think now it's commonly known that... Vietnamese clients, for example, we find that when, if and when they do enter the NRM, it's very rare that they stay within it, and usually they abscond within either a few days or certainly within the early weeks of being within the NRM.

Claims about 'trafficking' or needing the NRM are therefore perhaps not to do with accessing the services within the NRM at all, so much as about avoiding the immediate harms of other immigration controls or criminalization. This evasion may be part of how Tom and others conceive of such undocumented people 'abusing' the state, but if so it only further illustrates how corrupt the idea really is—that simply avoiding the active violence of immigration control is tantamount to undocumented people abusing the state. At every turn undocumented people both in and out of the NRM are framed in the worst possible ways. Even Julie's use of the word 'abscond' is dubious, as the word has strongly criminal associations (another participant used this word in the same way). When people use the system it is presented as criminal abuse (Tom) and when they avoid the system they are labelled in similarly criminal terms (Julie) or are regarded as suspicious by authorities (as relayed by Joy, a legal aid solicitor).

The 'abuse of the NRM' narrative is reframing state evasion in the worst terms imaginable. The abused are labelled abusers simply for trying to evade abuse. Even claims of victimhood made to produce a referral appear to be less about accessing services from the state system than

about avoiding immediate harms perpetrated by the state system. The 'abuse' narrative not only presents the intentions and actions of undocumented people in highly dubious terms but distracts from the dominant cycle of inclusion and persecution consistently reproduced by the NRM.

As these and earlier contradictions demonstrate, the vulnerability does not relate to scarce resources. The defence here does not protect a vulnerable society and its citizens, whose wellbeing is threatened by the presence of the 'immigrant'. Rather, the vulnerability relates to the state itself—the apparatus attempting to monopolize violence. Its claim of 'abuse' either functions to rationalize violence perpetrated, or to object to its own inability to do so. The latter causes feelings of vulnerability because it is through acts of physical violence that the state—which is defined by violence—asserts its own existence, 'its own right to be (at the expense of its subjects's [*sic*] own right to be)' (Martel 2019: 17).

DESIGNING THE SYSTEM TO NARRATE STATE VICTIMHOOD

Victimhood provides justification for political power. Yet while the NRM is nominally about 'victim identification', the political significance of victim status is always withheld. In the initial identification, people are labelled 'potential victims', which enables actions upon them. When the Home Office publishes the annual NRM statistics, it is commonplace for the number of 'potential victims' referred to the NRM to be emphasized by news articles and government ministers, which can then, in turn, blur into the idea that this relates to a recognition of victimhood (ATMG 2014). Participants also blurred the usage of 'victims' and 'potential victims'. Talk of 'potential victims' keeps the political power of victimhood out of reach. Anyone who actually receives a positive conclusive grounds decision, confirming them as a 'genuine victim of modern slavery', does so after a sustained delay that turns their victimhood into a thing of the past, draining it of political power. As a decision maker I interviewed said, being a victim of trafficking does not mean you are in danger now: '*because you were a victim of trafficking, you are not in... any kind of immediate danger or foreseeable danger*', and she claimed asylum was based on such grounds. Confirmation of victimhood comes with nothing as a result, and support typically ends at this point as well. Their victimhood is recognized only when it has become a victimhood of the past.

In contrast, the design of the NRM has always served the state's efforts to reclaim victimhood and its power after temporarily sharing the veneer of victimhood with those approached about the NRM. The NRM is structured into a two-stage decision-making process, in which the support is largely provided between the 'reasonable grounds' and 'conclusive grounds' decisions. Such a design means that anyone who receives a positive reasonable grounds decision, followed by a negative conclusive grounds decision, has 'abuse of support services' retrojected onto their story, in loaded interpretations of NRM statistics. The design is constructed so that it can be said of the thousands who receive negative final decisions, that they have received months or years of 'support services' even though they were not 'genuine victims'. Other crimes do not have such a decision-making process, let alone a two-stage process and there is no clear purpose to it. But in this way, the state's attempts to incorporate people into its immigration systems—to be held in limbo, while organizations profit—can be reframed as their abuse of the victimized state.

CONCLUSION

This article has shown that people entering the NRM have often had minimal if any input in the decision to enter. In keeping with the norms of state violence and victimhood, the state is engineering the process in which people enter its systems while framing that very act as one of violence against itself—'abuse' of the system. Rationalized violence follows, in the form of

impoverishment, destitution, detention and deportation. All of this is obscured by the transient humanitarianism of 'modern slavery victim identification'. By foregrounding some degree of suffering among a population whose suffering is more usually excluded from discourse entirely, and externalizing the cause of that suffering from state violence onto the 'trafficker', the state elicits more collaboration with its immigration system than it otherwise would. But the denial of state violence means that when that interaction finally occurs, the 'victim' loses their claim to victimhood; it is stolen by the state, and the state becomes the vulnerable 'victim' of their 'abuse'.

There have been calls for a separation of the NRM from the Home Office for years (ATMG 2014). There is no suggestion such reform is plausible, and if the NRM bureaucracy were not structured around wider Home Office priorities, it is not clear who and what it would be structured around. As discussed, the anti-slavery sector has not dismantled the ideology of state victimhood in immigration discourse. As a result, campaigns like Status Now 4 All, which calls for all undocumented people in the legal process in the UK and Ireland to receive immediate indefinite leave to remain, has 139 signatory organizations, only one of which is primarily an anti-MSHT organization (Status Now 4 All 2023). Even this kind of reform can entrench border harms, coupling expansive one-time inclusion with a tightening of immigration controls against those not incorporated (Bradley and de Noronha 2022). Yet these campaigns are at least more substantial than the demands made by anti-slavery groups, who instead call for 'victims of MSHT' to be given exceptional treatment from the present immigration system based on an ambiguous victim status that is inevitably temporary, with little success. In protecting the 'victimized state' from 'immigration abuse', anti-slavery undermines what 'victim identification' can amount to, and is therefore not a strong enough vessel to protect those actually brutalized by state violence. Rather than trying to reform the NRM or provide direct alternatives to that bureaucracy, progress may be better pursued by developing the community support structures upon which undocumented people already depend, where they can be better defended from the harms of bureaucratic violence.

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