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**Michel Forst**

Special Rapporteur on the situation of human rights defenders

**Urmila Bhoola**

Special Rapporteur on contemporary forms of slavery, including its causes and consequences

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Special Rapporteur on trafficking in persons, especially women and children

Office of the High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10

*Dear Mr Forst, Ms Bhoola, Ms Grazia Giammariano,*

Thank you for your letter dated 3 January 2019 regarding the implementation of the Modern Slavery Act. Our observations on the points raised in your letter are provided in the attached annex.

I hope the further detail set out in the annex addresses your concerns in regard to the allegations you received. The UK Government reiterates our strong support for your mandates and the work of the Office of the High Commissioner for Human Rights.

*Yours sincerely,*

A handwritten signature in blue ink, appearing to read 'JNBraun'.

JULIAN BRAITHWAITE

## Annex

### **Response of the Government of the United Kingdom of Great Britain and Northern Ireland to Communication AL GBR 14/2018 received on 3 January 2019, from: the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; and the Special Rapporteur on trafficking in persons, especially women and children.**

We are grateful for the interest shown in the UK's work to tackle modern slavery. Please find below a response from the UK Government to the questions received via the joint communication of 3 January 2019.

#### **1. Please provide any additional information and/or comment(s) you may have on the above-mentioned claims.**

The UK Government is committed to tackling the heinous crime of modern slavery and ensuring that victims are provided with the support they need to begin rebuilding their lives.

Following the Government's introduction of landmark legislation through the Modern Slavery Act 2015, the Government began drafting statutory guidance with experts in trafficking and modern slavery across the wider public sector and civil society. This was a very collaborative process and a number of meetings were held to produce drafts, which were subsequently shared. This began shortly after the Act was commenced.

In 2017, the Government announced an ambitious package of reforms to the National Referral Mechanism (NRM), the UK's system for identifying and supporting victims of human trafficking and modern slavery, to further improve the identification, support and decision-making process for victims. Work on the statutory guidance was paused to accommodate the wider work around reforms to the NRM.

In the High Court of England and Wales judgment in the Case of *K & AM v Secretary of State for the Home Department [2018]*, the judge highlighted the need for the Government to remedy the lack of statutory guidance. The detail of the information communicated to you and quoted in your letter states:

'On 20 November 2018, in response to a parliamentary question about the plans of the Government in relation to consultation with stakeholders in the development of that statutory guidance, the Parliamentary Under-Secretary of State at the Home Office pointed out that the authorities have "no duty to consult", but suggested that unspecified stakeholders had already been involved.'

The response provided by the Minister refers to the fact that the Act does not require a full public consultation on statutory guidance. A public consultation is a formal, time-bound, written process designed to seek views from members of the public and interested parties. As this guidance will focus on the technical aspects of safeguarding victims, the roles and

responsibilities of different organisations, and the decision-making process we believe that these policy issues are better addressed through informal consultation with *subject specialists* from across government, civil society and the wider public sector, rather than the more formal “public consultation” process. The Government values the expertise of civil society and is always keen to engage with partners in tackling the issues facing victims.

The Home Office is working to take the statutory guidance forward. Cross-departmental discussions are underway and an engagement plan and timeline for the publication of comprehensive guidance is in place.

**2. Please provide details on the content of the aforementioned guidance and on the efforts deployed by your Excellency's Government to ensure that the provisions of the statutory guidance are in compliance with the State's obligations under international human rights law and standards, particularly with regard to the rights of victims of trafficking in persons and of contemporary forms of slavery.**

Section 49(1) of the Modern Slavery Act 2015 sets out the following requirements:

‘That the Secretary of State must issue guidance to such public authorities and other persons as the Secretary of State considers appropriate about —

- (a) the sorts of things which indicate that a person may be a victim of slavery or human trafficking;
- (b) arrangements for providing assistance and support to persons who there are reasonable grounds to believe may be victims of slavery or human trafficking;
- (c) arrangements for determining whether there are reasonable grounds to believe that a person may be a victim of slavery or human trafficking’

Currently, there is operational guidance that fulfils the requirements in paragraphs (a) and (c) of section 49(1) but limited existing guidance under section 49(1)(b). Since the judgment in *K & AM v Secretary of State for the Home Department [2018]*, the Government has been working to address this gap and produce comprehensive statutory guidance that sets out the support victims of modern slavery are entitled to under international human rights law, and with specific regard to the rights of victims of trafficking in persons and of contemporary forms of slavery, as described in Articles 12 and 13 of the Council of Europe Convention on Action against Trafficking in Human Beings and Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

**3. Please indicate what consultations have thus far taken place with relevant stakeholders, with which stakeholders, and what the outcomes have been.**

The UK Government values and recognises the expertise that civil society brings and has actively worked to enable more effective implementation of Article 35 of the Council of Europe Convention on Action against Trafficking in Human Beings, and Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, by establishing improved strategic partnerships with civil society. It is for this reason that

membership of The Modern Slavery Strategy and Implementation Group (MSSIG), chaired by the Minister for Crime, Safeguarding and Vulnerability, has been refreshed, allowing organisations in civil society, business and other areas to feed-in to government policies aimed at tackling modern slavery. In addition, the Government also undertakes extensive engagement with civil society and other technical subject matter experts throughout individual projects:

- The Government has established a dedicated Modern Slavery Taskforce to drive progress in tackling organised crime groups and people traffickers who profit from the exploitation of vulnerable people. This group reports directly to the Prime Minister and ensures a co-ordinated response from technical experts across government, law enforcement agencies and other public bodies.
- The reforms to the NRM are overseen by a Programme Board of trafficking and modern slavery experts. This board has representation from the Independent Anti-Slavery Commissioner's Office, the Local Government Association, the Police Modern Slavery Transformation Unit as well as Adult and Child Social Services networks. This board has a key role in advising on government policy and challenging progress made to deliver the reform programme.
- The Government holds quarterly meetings with sub-contractors (a range of civil society organisations) who provide frontline services to victims, to help it understand what is working well in the system and what challenges exist in enabling victims to access their rights under the convention.
- The Minister for Crime, Safeguarding and Vulnerability chairs the Business Against Slavery forum, which includes some of the most influential business leaders in the UK. This group work with government to identify how to accelerate progress in tackling modern slavery and how government can support business-led initiatives.
- We are working to secure an independent inspectorate to implement a new inspection framework, to ensure that accommodation and services provided to victims are of a high standard. This framework is based on the Human Trafficking Foundation's Care Standards, a set of guidance drafted by a group of civil society organisations. The Government invited the group to update these standards to ensure their expertise is fully reflected in the new Victim Care Contract, and the associated inspection regime.
- A working group of public sector organisations and civil society has been established to ensure frontline staff are well-equipped to identify and support victims into the NRM. This review of first responders has involved contributions from civil society organisations via roundtables, formal written submissions and through surveys.
- The Government consults with NGOs and technical experts in advance of the Modern Slavery Innovation Fund procurement to identify the priorities, geographic scope and where there are gaps in the current response.

- The Government has asked expert civil society organisations working with child victims to produce recommendations on how to improve how the system works for children and is working to implement the majority of these recommendations.
- The Government is piloting a system with local authorities to promote transition into mainstream support once survivors exit NRM services. This project is supported by an expert advisory group, drawn from across civil society and the public sector.
- The Government has engaged with human trafficking experts across civil society and the wider public sector by implementing multi-agency panels, which will embed a multi-agency approach to decisions on whether someone is a victim of modern slavery or human trafficking.
- The digital referral system has undergone user testing with frontline staff, experts in trafficking and modern slavery and representatives from civil society.
- Representatives from across the Government regularly attend events held by civil society to provide updates on progress, invite challenge and respond to concerns. The Government also pro-actively publishes a quarterly newsletter to ensure stakeholders, who are not able to attend these events, are kept apprised of progress.

The Government is taking a cross-Whitehall approach working with trafficking and modern slavery subject specialists across public sector bodies, law enforcement agencies, the Crown Prosecution Service, and the Devolved Administrations to address the current lack of guidance on victim support. The Government invited the views of civil society organisations via the MSSIG Victim Support Group and facilitated a roundtable discussion.

The Government has set out its commitment to publishing comprehensive guidance as part of the package of NRM reforms and remains committed to working with modern slavery and trafficking experts to take this forward. This guidance will bring together existing guidance documents, the work of other government departments, and the views of the wider public sector to provide a single source of information for all frontline professionals, and support providers and decision makers to enable them to effectively identify and support victims of modern slavery.

**4. Please indicate whether the Government intends to hold consultations with relevant civil society actors, and what measures will be taken to ensure that their viewpoints will be taken into account to ensure an effective implementation of the Modern Slavery Act.**

The Government has a comprehensive engagement plan and timeline for taking forward the drafting of detailed statutory guidance that meets all of the Government's legal obligations under section 49(1) of the Modern Slavery Act 2015.

This engagement plan clearly sets out where there are opportunities for civil society to help answer policy questions that will inform the guidance, and where civil society organisations are able to comment on the specific areas of drafting. By setting out this timeline in advance,

we hope that civil society organisations will be well prepared to comment and provide valuable input.

As noted in A/HRC/25/55, it is important that the Government ensures “public policies, including development policies and projects, are developed and implemented in an open and participatory manner, and that defenders and communities affected are able to actively, freely and meaningfully participate.” That is why we are seeking the voice of survivors of modern slavery in informing this guidance and ensuring that this vital perspective is reflected.

As civil society actors and other stakeholders have noted, the guidance must be something that enables frontline staff to understand how to identify and support victims, so we will test this guidance with frontline staff at both statutory organisations and in civil society.

## **SUMMARY**

We feel this concern is unjustified given the significant work that we are doing to engage NGOs. We are committed to maintaining this engagement and providing multiple opportunities to draw on the knowledge and experience of civil society as we take this work forward. We recognise that there is an urgent need for guidance and can assure you that we are progressing this work at pace.

Our engagement plan, and timeline, set out how the Government is bringing together departments, the wider public sector, non-governmental organisations, and civil society in producing detailed guidance to ensure that the UK remains a leader in tackling Modern Slavery and Human Trafficking.

We also want to reassure you that we are carefully considering the implications of *K & AM v Secretary of State for the Home Department [2018]* on our future approach to financial assistance for victims of modern slavery. We have reinstated the top-up payment made to asylum-seeking victims of modern slavery and have paused implementation of any further changes to allow time to reconsider our approach. We have also put in place a process to back-pay those affected by *K & AM v Secretary of State for the Home Department [2018]*.