

## Refugee Council response to the Home Affairs Committee Inquiry into Human Trafficking, February 2008

### Introduction

1.1 The Refugee Council welcomes the present Inquiry of the Home Affairs Committee into human trafficking. The Refugee Council is the largest charity in the UK providing help and advice to asylum seekers and refugees. We campaign for their rights and help them rebuild their lives in safety. We work with those seeking international protection at all stages of the process.

1.2 The Refugee Council welcomes the progress made by the UK thus far in the area of trafficking, in particular the UK's accession to the Council of Europe Convention on Action Against Trafficking in Human Beings. Our interest in this Inquiry concerns trafficked people with whom we have contact due to their seeking international protection on human rights grounds and/or under the 1951 Convention Relating to the Status of Refugees. Whilst we note that the vast majority of irregular migrants coming to the UK are smuggled rather than trafficked and that not all trafficked persons are refugees, the serious nature of trafficking has a particular and often severe impact on individuals which can lead to a need for international protection.

1.3 The Refugee Council will comment on the primary focus of this Inquiry, namely the response to trafficking by public authorities in the UK. Our comments and recommendations are focussed on children and young persons since this is the area in which we have most experience in relation to trafficking. We will also draw on our ongoing policy work in the area of separated children.<sup>1</sup>

### Executive Summary

- The Refugee Council works face-to-face with trafficked children and young people and has developed expertise through our Specialist Advisor on Young Women.
- Victims of trafficking need *time* in order to talk about their experiences of trafficking with professionals. This should be provided for when victims are seeking international protection and welfare services.

---

<sup>1</sup> The Refugee Council has a Policy Advisor on Unaccompanied Children; we are a member of the Separated Children in Europe Programme and chair the NSPCC Child Trafficking Advice and Information Line Advisory Group

- Victims of trafficking who claim to be children should be offered safe accommodation as a priority. If necessary, age assessment can be conducted once the individual is safe.
- The Refugee Council recommends that the UK sets up a system of independent support advocates who are specialists in trafficking to ensure multi-agency working on behalf of victims.
- The Border and Immigration Agency and local authorities should remedy the 'culture of disbelief' around the experience of trafficking, for example by affording time to victims through a three month reflection period.
- The UK's reservation on the Convention on the Rights of the Child leads to unequal treatment for children subject to immigration control, including trafficked children. The Refugee Council hopes that the UK's current consultation will result in the withdrawal of the reservation.<sup>2</sup>
- Good quality legal representation is vital for trafficked people; training should be offered to increase the number of specialist legal representatives.
- Local authorities should offer safe accommodation in order to prevent children and young people going missing from their care.
- The risk of re-trafficking as well as exploitation, including where people are being returned to another EU country, should be examined by the Home Office in any assessment of whether return is safe.
- The UK must ensure that anti-trafficking measures do not restrict access to processes which allow people to claim international protection.
- Officials responsible for immigration control- including consular staff – should be given guidance on the identification of trafficking victims in particular where they may be in need of international protection.

## Background

2.1 The Refugee Council has developed expertise through face-to-face contact with victims of trafficking. Of particular relevance is Refugee Council's Children's Section which has 34 frontline advisors, including a Specialist Advisor on Young Women.<sup>3</sup> Through close work for lengthy periods, the team has gained an in-depth insight into the issues faced by children and young people who have experienced trafficking.<sup>4</sup>

2.2 In general, it is our experience that the level of support needed by trafficked children and young people is greater than other separated children due to their complex needs. Case workers find that considerable one-to-one support, encouragement and emotional support is required, entailing increased

<sup>2</sup> Q16, The Border and Immigration Agency Code of Practice For Keeping Children Safe From Harm, Consultation, 31 January 2008

<sup>3</sup> Funded by the Home Office and charitable agencies- Big Lottery Fund, Camelot, Colyer Fergusson

<sup>4</sup> The trafficking of children (those under 18 years or age) is distinct from that of adults (those over 18 years of age) in that it is not based on coercion, deception or any illicit influence. By this definition, if a person under 18 years of age is moved for purposes of exploitation that person is a victim of trafficking.

British Refugee Council, (commonly called the Refugee Council) is a company limited by guarantee registered in England and Wales, [No 2727514] and a registered charity, [No 1014576].  
Registered office: 240-250 Ferndale Road, London SW9 8BB, United Kingdom

amounts of time per case. The fear experienced by these clients, particularly those who have been sexually exploited, is very real and generally described as higher than the level of fear experienced by other young people seen by the Children's Section, even those who had escaped from civil or political unrest. The reason for this seems to be that trafficked young people fear that the perpetrators remain in the same area of the UK in which they live. Overall, it seems that victims of trafficking have been responsive to the support received from the Refugee Council, and in many cases, we have been able to ensure that the young person is linked into appropriate services to help them re-establish their lives and reassert their confidence.

## **Estimating the scale and type of activity**

3.1 For reasons that are well-documented, estimating the scale and type of trafficking activity is extremely difficult. Most trafficked young people seen by our Children's Section are referred by community organisations, solicitors, social services, other children and health professionals. Whilst each case that the Refugee Council has seen is unique, some themes emerge:

3.2 Many of the young people identified as trafficked by the Children's Section over the past two years have been females trafficked for sexual exploitation and domestic servitude. We have also seen young men being trafficked into the country for cannabis cultivation. In some cases the purposes of trafficking is not clear-cut, for example, some who came as domestic servants also indicated that there were attempts to sexually exploit them.

3.3 While physical and sexual violence is a common occurrence for children who are trafficked, the level of sexual violence specifically experienced by some of the young women seen by the Refugee Council's Children's Section trafficked for purposes of sexual exploitation was extremely high.

3.4 The accounts heard by the Children's Section of children entering into domestic servitude seem in line with those heard by other agencies. These include being orphaned or living in poverty and being promised the chance to go to school. Once in the UK they are put to work in a house and not allowed out. Many of these children have suffered both verbal and physical abuse; some managed to escape, either on their own or with the help of others, when an opportunity presented itself.

3.5 While it appears to be a general trend that trafficked victims are going missing from care, a very low percentage of Children's Section cases appear to have gone missing. This may indicate that the Children's Section provides valuable advocacy to ensure to victims are in safe accommodation as well as providing them with the logistical and emotional support they need and the belief that they are being looked after, thus decreasing their level of fear and the possibilities of them leaving care.

## **Response to trafficking by public authorities in the UK**

### **The effect of age assessment as a priority in service delivery to children**

4.1 Children who have been victims of trafficking tend to be vulnerable and in need of specialised care and support. Many trafficked children have come from a history of abuse which started long before their trafficking took place. The majority of the young women seen by Refugee Council were either orphaned, had escaped violence or were living on the streets prior to being trafficked.

4.2 The Refugee Council notes that the current approach that appears to be taken with trafficked young people is to offer limited support and then increase this as need is indicated, instead of beginning with a complete child protection plan ensuring maximum support and then reducing this support, if appropriate, once the child protection needs are thoroughly assessed and met. We believe that trafficking should be approached with the urgency and gravity of a child protection issue.

4.3 A significant proportion of individuals, including victims of trafficking, who state their age to be under 18 years are not believed by the Border and Immigration Agency and subsequently have their age assessed by the local authority. Some may be provided with adult accommodation until the dispute is resolved which can be a long and extremely stressful process. For victims of trafficking, the Refugee Council has found that the effects of age disputes can be detrimental to the individual as well as counter productive in terms of gaining information and building trust. More worryingly, there is a risk of victims going missing or being housed in accommodation that is not safe for them. Accessing services at the earliest stage possible is vital to the safety of trafficking victims and the Refugee Council believes that where there is even a suspicion that an individual has been trafficked, a place of safety should be provided immediately until age can be determined.

4.4 Refugee Council would further stress that the very experience of being trafficked has an impact on the issue of the age at which a child appears to present him/herself. A trafficked child is often told by the trafficker to dress and behave as well as say they are older than their actual age. This is particularly so in the case of females trafficked for sexual exploitation and domestic servitude. Similarly, visa applications may contain false information including the portrayal of children as being older than 18. This information must be analysed in the context of trafficking to increase the accuracy of age assessment.

### **Independent Support Advocate for trafficking victims**

5.1 In our experience of working with young people who have been trafficked, the care package that needs to be put in place encompasses a range of agencies, not all of which have expertise in dealing with trafficking victims. To ensure the trafficked person can turn to an agency that is independent from the arbiter of their request to remain in the UK and likewise of their request for service provision, the Refugee Council urges the government to put in place a system of independent advocates for trafficking victims, including children and young people.

5.2 The independent nature of such a position would increase the likelihood of a relationship of trust and therefore increase the trafficked person's confidence to impart information on their trafficking experience. The advocate could serve the vital function of ensuring multi-agency co-operation as well as ensuring the trafficking victim is fully appraised of their rights and responsibilities. Overall, it would reduce the risk of the individual 'falling through the gap' in service provision and expedite the resolution of any age disputes that may arise. It would further allow one-to-one time to be spent with a victim of trafficking for support from an advocate with experience and specialised knowledge that is not currently available. The Refugee Council's Specialist Advisor for Young Women, a qualified Social Worker, could provide a model for such an independent scheme to support child victims, or suspected victims of trafficking.

### **'Evidencing trafficking' as part of a human rights and/or asylum claim**

6.1 The Refugee Council believes that a major difficulty experienced by individuals who have alleged trafficking is the demands made on them by the Border and Immigration Agency- at the screening unit or by Case Owners- for *evidence* of trafficking. The effect of not being believed has a

detrimental effect on victims as well as potentially damaging their credibility in an asylum claim and/or limiting access to services. As a clandestine illegal activity, trafficking does not lend itself to substantiating objective evidence. In any event, most victims of trafficking are extremely reluctant (through fear) and/or unable to provide such evidence.

6.2 Many young women are not self identifying as 'trafficked'. Building up the trust of is of paramount importance if appropriate support is to be provided. A person working with a trafficking victim can build trust in a number of ways but a starting point, is to believe the young person's story and age as well as give primacy to their 'best interests'. In our experience, here remains a 'culture of disbelief' in the Home Office in relation to both age and experience of trafficking that the Refugee Council believes needs to be urgently addressed.

6.3 Whilst most children are generally protected against return (via grants of Discretionary Leave), it is worth noting that protection needs may continue once the child has reached 18. The assumption that turning 18 signals a green light for return may have grave consequences for trafficking victims and claims should be carefully examined on an individual basis. We are also concerned that the new package of measures announced recently for unaccompanied children includes an intention to enforce returns prior to children turning 18.<sup>5</sup>

### **Reflection period: opportunity for a 'protection package'**

7.1 The Refugee Council believes that the best way to improve the understanding of trafficking is to gain the trust of the victims through building into the system both time and advocates to establish trust. In this context, the Refugee Council urges the UK to ratify the European Convention Against Trafficking as a priority and in particular to implement the provision relating to the three month 'reflection period' afforded to victims. In the light of the severe nature of the experiences of trafficking victims, the Refugee Council views the possibility of a reflection period as a valuable opportunity to offer specialised support to victims.

### **The effect on trafficking victims of the UK's reservation on the UN Convention on the Rights of the Child<sup>6</sup>**

8.1 Once trafficked victims reach the UK they need to be protected according to the law. Under the 1989 Children Act, the Government has a duty to take care of all children in need, regardless of their status in the UK. However, because of the UK's reservation on the CRC, some social workers and other child care professionals assume that the provisions in the Children Act 1989 and 2004 do not apply to children subject to immigration control.<sup>7</sup> The Joint Committee on Human Rights in 2004 stated "The UK's Reservation to the CRC concerning immigration and nationality appears to legitimize unequal treatment of these vulnerable children by both the central government and local service providers". The CRC

---

<sup>5</sup> See BIA 'Better Outcomes: the way forward, improving the care of unaccompanied asylum seeking children', 31/1/08 at <http://www.bia.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/closedconsultations/uasc/betteroutcomes.pdf> and Refugee Council response at: <http://www.refugeecouncil.org.uk/news/press/2008/January/20080131.htm>

<sup>6</sup> The Reservation states: 'The United Kingdom reserves the right to apply such legislation, in so far as it relates to the entry into, stay and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, and to the acquisition and possession of citizenship, as it may deem necessary from time to time.'

<sup>7</sup> See Crawley, Heaven (2006) 'Children First. Migrant Second: Ensuring that Every Child Matters', ILPA Policy Paper.

reservation is indicative of the tension that seems to exist in the UK between immigration law and child protection issues. When applied to trafficking cases, this can result in the most vulnerable being denied help. The Refugee Council hopes that the UK's current consultation<sup>8</sup> results in the withdrawal of its reservation to the CRC as a step towards reducing the differential treatment received by refugee children.

## **Identifying victims of trafficking**

9.1 The Refugee Council believes the identification of victims of trafficking to be extremely difficult to the nature of trafficking. We would caution against any suggestion that the social services conduct a one-off assessment interview to ascertain whether a person is a victim of trafficking. We would view such an approach as wholly inadequate and highly unlikely to result in the correct identification of trafficking victims in order to protect them. In the experience of the Refugee Council's Specialist Advisor on Young Women, victims of trafficking rarely trust adults immediately and it can take many sessions for information to come to light pertaining to the experience of trafficking. As a result, we would again highlight the need for trust to be established in order to trafficking victims to feel able to disclose their experience of trafficking. This usually takes cumulative one-to-one sessions.

## **Legal representation**

10.1 The availability of good quality legal representatives with expertise in trafficking is vital to ensure trafficked victims gains the protection they need. The Refugee Council would urge for specialised training to cover the particular skills needed to identify and advise victims of trafficking. In adult cases, we urge the government to ensure legal aid provision covers the increased time needed to take instruction from this client group due to their unique circumstances.

## **Placement of trafficked children**

11.1 There appears to be no consistency around housing for trafficked children and many are placed in potentially unsafe and insecure environments. The Refugee Council would urge the government and local authorities to address this issue in order to minimise children going missing from their care. We would recommend foster carers of children under 16 be supported and trained in issues affecting trafficking victims and high support accommodation-possibly foster care- for 16 and 17 year olds.

## **'Returnability' of trafficked victims**

12.1 The Refugee Council urges the government to consider the risk of re-trafficking in any assessment of return. The speed at which asylum and human rights applications, particularly in the detained fast track process, are currently decided mitigate against the proper assessment of this risk. For example, victims of trafficking may take a longer amount of time to feel safe enough to talk about their experience of trafficking for which there is no allowance in the current system.

12.2 In children's cases, any assessment of returnability should be focussed on the best interests of the child since it cannot be assumed that the child's best interests are to return to their family in all cases.

---

<sup>8</sup> Q16, The Border and Immigration Agency Code of Practice For Keeping Children Safe From Harm, Consultation, 31 January 2008

This is relevant to cases where families may have been involved in trafficking due to a range of circumstances, including poverty.

12.3 In the context of return under the Dublin II Regulation, the Refugee Council has come across examples of exploitation upon return to another EU state, and urges the government to take this risk into account when considering return (in particular that of children).

### **Trafficking and smuggling prevention as an interception measure**

13.1 In response to this Inquiry's examination of international co-operation on trafficking, the Refugee Council would urge the UK to recognise that an increasing number of refugees are being forced to use the services of smugglers or traffickers as a result of the lack of legal routes to enter the UK to claim asylum. As a result, border guards and officials need to take into account that persons who are smuggled, trafficked, or are potential victims of trafficking may also be in need of international protection. Officials tasked with immigration control should be provided with guidance on the identification of persons who may be victims of trafficking which should also include guidance on asylum law. This also applies in circumstances where the UK provides funds for the training of border guards in other countries in order to reduce the supply side of trafficking.

13.2 When screening visa applications to identify persons who may or are about to be trafficked, consular staff should also be directed to assess whether the applicant may be in need of international protection or belong to a group which may have fear of persecution in their country of origin to better judge if the person should be granted a visa.<sup>9</sup>

#### **Contact:**

Helen Muggeridge  
International Protection Policy Advisor  
Refugee Council  
240-250 Ferndale Road  
London  
SW9 8BB

e-mail: [helen.muggeridge@refugeecouncil.org.uk](mailto:helen.muggeridge@refugeecouncil.org.uk)

tel: 020 7346 1157

---

<sup>9</sup> The Refugee Council is currently running a research and advocacy project on access to asylum called the Protection Sensitive Borders Project.

British Refugee Council, (commonly called the Refugee Council) is a company limited by guarantee registered in England and Wales, [No 2727514] and a registered charity, [No 1014576].  
Registered office: 240-250 Ferndale Road, London SW9 8BB, United Kingdom

