



Trafficking in Persons

The UN protocol to Prevent, Suppress and Punish Trafficking in Persons (the Trafficking Protocol¹) defines trafficking as:

"the recruitment, transportation, transport, harbouring or receipt of persons, by means of the 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 the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitutes of others or other forms of sexual exploitations, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"

Child trafficking defined as:

"The act of recruitment, transportation, transfer, harbouring or receipt of a child (defined as under 18) for the purpose of exploitation either within or outside the country"

Unlike trafficking in adults, there is no requirement that the child have been deceived or coerced by the trafficker: a child's 'consent' to go with a trafficker is not recognised in law.

The vast majority of irregular migrants coming to the UK are smuggled rather than trafficked. People smugglers may profit by transporting irregular migrants for money, but do not attempt to exploit migrants once they reach their destination country. In sharp contrast, traffickers profit through exploitation of their victims, controlling them by:

- Threatening or using violence against the victim or their family
- Debt bondage (a form of slavery where people are forced to work for little or no money in order to pay back debts, in this case debts 'owed' to their traffickers)

¹ http://www.unodc.org/unodc/trafficking_protocol.html

- Using threats relating to the victims immigration status (trafficking victims may be terrified of the Immigration Service and of deportation)
- Exploiting emotional attachments, such as 'boyfriends' trafficking women for the purposes of sexual exploitation
- Exploiting the victims vulnerability and lack of alternative options²

People trafficking is a serious human rights violation. The Refugee Council believes that all victims of trafficking in the UK should be offered support and protection.

Trafficking in the UK and EU

Whilst governments and international agencies agree that people trafficking has become more common since the 1990s, involves organised international criminal networks, and affects thousands if not millions of people worldwide, there is very little robust evidence about either the prevalence of trafficking or the experiences of trafficked victims.

In 2004 the US State Department estimated between 600,000 – 700,000 people were being trafficked each year worldwide. Of these, 70% were thought to be women and girls, 50% children³.

In 2005, the International Labour Organisation estimated that 270,000 victims of trafficking were living in the industrialised countries of Europe and the US⁴. As well as trafficked victims from developing countries in Africa, Latin America and Asia, the ILO report documented an increase in trafficking from Central and Eastern European Countries.

However, in contrast to the estimates set out above, OSCE has stated that 1.2million children are trafficked each year⁵ and IOM estimates as many as 500,000 women are trafficked into Europe each year for the purposes of sexual exploitation.

² See Kaye, M (2003) *The Migration-Trafficking Nexus: Combating trafficking through the protection of migrants human rights*, Anti Slavery International.

³ US Department of State (2004) *Trafficking in Persons Report*, Washington

⁴ International Labour Office (2005) *A Global Alliance Against Forced Labour, Global Report Under the Follow up to the ILO Declaration on Fundamental Principles and Rights at Work*, Geneva

⁵ OSCE (2004) *Ensuring Human Rights Protection in Countries of Destination: breaking the cycle of trafficking*, Conference Report

Information about the scale of trafficking to the UK is particularly weak, a fact acknowledged by the government in '*Tackling Human Trafficking: consultation on proposals for a UK Action Plan*⁶'

In 2002, the Home Office estimated approximately 1,400 women had been trafficked into the UK for the purposes of sexual exploitation, and in 2003, UNICEF reported that at least 250 children in the UK had been identified by police, the immigration authorities, social service agencies and Non –Governmental Organisations as having being trafficked in the 5 years prior (UNICEF 2003).

The Poppy Project⁷, the UK's only specialist support service for victims of trafficking reports that most of the women accessing their service are from Lithuania, Romania, Moldova, Ukraine, Thailand, Vietnam, the Democratic Republic of Congo, Sierra Leone, Ghana and Nigeria. (Poppy Project, 2004). In their report on trafficking of children, UNICEF listed these countries plus Ethiopia, Angola, Burundi, Malawi, South Africa, Kenya and Uganda⁸.

In order to ensure that victims of trafficking are supported and protected, there is an urgent need for more robust evidence on the scale of trafficking into the UK, and the experiences of victims.

Victim Protection

The vast majority of trafficking victims in the UK are never identified, and when they come to the attention of the authorities are likely to be seen as illegal migrants, liable to prosecution for immigration offences and deportation.

A limited number of trafficking victims are able to make a claim for asylum in the UK. Of these, a few are refugees forced into the hands of traffickers in order to escape persecution

⁶ January 2006, UK Home Office.

⁷ The Poppy Project, run by Eaves Housing, can house up to 25 women at a time, provided they have been trafficked for sexual exploitation and have escaped prostitution within the 30 days prior to referral. Women at the project are given 4 weeks in which to decide whether they will co-operate with authorities to prosecute their traffickers.

⁸ UNICEF (2003) *Stop the Traffic!*, London. It is important to note both the very small sample size, the fact that the Poppy Project works exclusively with women trafficked for the purposes of sexual exploitation, and the UNICEF report focuses on child trafficking.

in their country of origin, but the majority are vulnerable to persecution if returned to their country of origin because of their experience as a victim of trafficking⁹.

Where successful¹⁰, these trafficking cases typically result in a grant of complementary protection under the European Convention of Human Rights, whilst a tiny number result in a grant of refugee status under the Refugee Convention. UNHCR is supportive of such cases on the grounds that *“trafficked women and minors may face serious repercussions after their escape and/or upon their return, such as reprisals or retaliation from trafficking rings or individuals, real possibilities of being re-trafficked, severe community or family ostracism, or severe discrimination”*¹¹.

However, most trafficking victims fall into a protection gap, not able to escape their traffickers and secure the protection and support of the state. To date, the UK government has primarily focused its response to trafficking on tightening border controls¹², and catching and prosecuting traffickers¹³, rather than victim protection.

The UN Trafficking Protocol itself contains a series of recommendations for victim protection including: training for immigration and law enforcement officials in victim protection, support to facilitate the *‘physical, psychological and social recovery of victims especially in the provision of appropriate housing, counselling, medical care, material assistance and employment, educational and training opportunities’*, temporary residence permits and a commitment to the safe and voluntary return of victims of trafficking. However, these provisions are not binding on states, so despite having ratified the Protocol, the UK is free to determine the level of support and protection available to victims. The recent ***Council of***

⁹ Returned victims can be at serious risk of reprisals from trafficking gangs, or from family and community members, without adequate state protection being in place. See Richards, S, Singer, D and Steel, M (2006) ***Hope Betrayed: An analysis of victims of trafficking and their claims for asylum, Poppy Project***, London.

¹⁰ Hope Betrayed provides indicative evidence that decision making on trafficking claims may be particularly poor. 100% of the cases covered in the report were rejected at first instance (provisional figures for 2005 show an overall refusal rate of 83%) and 80% were successful at appeal (overall rate is 18%). Given the fact that these women all had the support of the Poppy Project, and so few trafficking victims are able to access any kind of support, this gives rise to serious concerns about access to protection for this group.

¹¹ UNHCR (2002) ***Guidelines on International Protection: Gender related persecution within the context of Article 1A (2) of the 1951 Convention and / or its 1967 Protocol relating to the Status of Refugees*** HCR/GIP/02/01

¹² For a detailed analysis of tightening border controls see http://www.refugeecouncil.org.uk/downloads/policy_briefings/immigration_controls-Nov_05.pdf.

¹³ The 2003 Sexual Offences Act established the offence of trafficking for the purposes of sexual exploitation, and the 2004 Asylum and Immigration (Treatment of Claimants) Act 2004 established a general trafficking offence, both punishable by up to 14 years imprisonment.

*Europe Convention on Action Against Trafficking in Human Beings*¹⁴ contains still more substantial victim protection measures, including mandatory reflection periods, where victims are able to begin the process of recovery, and consider their future options in safety, and temporary renewable residence permits.

At present the Poppy Project remains the only specialist support service for trafficking victims. Its services are limited: the project can only house up to 25 women at a time, and access is limited to women who have been trafficked for sexual exploitation and escaped prostitution within the 30 days prior to referral.

The Refugee Council believes that in all trafficking victims should be able to access support and protection, not simply those who are found to be refugees. We believe that all trafficking victims should benefit from the following:

Protection measures

- Minimum of a three month 'recovery and reflection' period, 6 months for children¹⁵
- Access to the asylum system, and to refugee or humanitarian protection status where appropriate
- The opportunity to apply for leave to remain in the UK on the basis of their vulnerability as a victim of trafficking¹⁶
- Access to redress through the criminal justice system (without conditionality: victims should not be forced to testify in exchange for support and protection)
- Guarantees that victims will not be punished through the use of detention, or prosecution under immigration law
- Support to ensure repatriation to their country of origin is voluntary, safe and sustainable.

Support

- Housing, including supported housing for particularly vulnerable adults and for all children
- Counselling and specialist care to enable recovery

¹⁴ Council of Europe Treaty Series 197

¹⁵ Reflection periods are essential in supporting victims to begin the process of recovery, and consider their future without the pressure of forced repatriation, or forced participation in criminal trials of their traffickers.

¹⁶ This would require a new form of leave within the immigration rules, or the extension of discretionary leave to remain to this group

- Free, high quality legal advice
- Access to employment opportunities, education and training where appropriate (i.e. for those with leave to remain in the UK)

Recommendations

- The UK should immediately sign the ***Council of Europe Convention on Action Against Trafficking in Human Beings***
- The UK government should, as a matter of urgency, begin monitoring its border control measures in order to ensure that refugees in need of protection are able to reach the UK, and that victims of trafficking are identified and protected
- The UK government should establish a new category of leave for victims of trafficking who do not meet the protection thresholds set out in the Refugee Convention or the ECHR
- The UK government should meet the standards of support set out in the Council of Europe Convention on Action Against Trafficking in Human Beings, by placing statutory duties of care for trafficked victims on relevant public sector bodies, funding voluntary and community sector provision and ensuring that specialist support is made available to all victims of trafficking
- The UK government should invest in research to establish the prevalence of trafficking to the UK and the characteristics of trafficking victims in order to understand and meet their needs;
- The UK government should adopt a holistic approach to counter trafficking measures, inclusive of international development work and victim protection as well as criminal sanctions.