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**Submission to Department of Justice Consultation on  
Human Trafficking and Slavery: Strengthening Northern  
Ireland's Response**

**April 2014**

## 1. Introduction

The Northern Ireland Council for Ethnic Minorities (NICEM) is an independent non-governmental organisation. As an umbrella organisation<sup>1</sup> we represent the views and interests of black and minority ethnic (BME) communities.<sup>2</sup> Our mission is to work to bring about social change through partnership and alliance building, and to achieve equality of outcome and full participation in society.

Our vision is of a society in which equality and diversity are respected, valued and embraced, that is free from all forms of racism, sectarianism, discrimination and social exclusion, and where human rights are guaranteed.

NICEM have engaged extensively on matters surrounding human trafficking, forced labour and sexual exploitation. We are actively represented on the DoJ NGO Engagement Group on Human Trafficking, the All Party Group on Human Trafficking, the Forced Labour Migration Group and a range of relevant fora. We have also recently formed a BME women's group, with many of the participants who served in our delegation to the UN Committee on the Elimination of Discrimination Against Women in June 2013. Furthermore, to support and expand our research on violence against women, we are also in the process of developing a policy paper on the vulnerability of BME women to domestic and sexual violence and exploitation. We have also submitted evidence on a range of existing legislation on human trafficking, including the Criminal Justice Act (Northern Ireland) 2013 and the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill. We also advised the UKBA Migrant Advisory Committee on forced labour and exploitative working conditions encountered by migrant workers in low skilled sectors, specifically in the food processing industry in December 2013.

In addition, we recently commissioned research on *Analysis of Current Responses to Human Trafficking in Northern Ireland* (2012) and *Bayanihan! The Filipino Community in Northern Ireland* (2012) which outlined high levels of labour exploitation, racial harassment and discrimination in the workplace experienced by Filipino Agency Workers. Prior to this, our research conducted in partnership with the Polish Association NI, *Za Chlebem": The Impact of the Economic Downturn on the Polish Community in Northern Ireland'* (2009) highlighted the precarious and vulnerable position of low skilled migrant workers<sup>3</sup>. Similarly, our forthcoming research report on the *Impact of the Economic Downturn on the Black and Minority Ethnic People in the North West of Northern Ireland* (2014) highlights issues over the vulnerability of migrant workers to labour exploitation.

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<sup>1</sup> Currently we have 27 affiliated BME groups as full members. This composition is representative of the majority of BME communities in Northern Ireland. Many of these organisations operate on an entirely voluntary basis.

<sup>2</sup> In this document "Black and Minority Ethnic Communities" or "Minority Ethnic Groups" or "Ethnic Minority" has an inclusive meaning to unite all minority communities. It refers to settled ethnic minorities (including Travellers, Roma and Gypsy), settled religious minorities, migrants (EU and non-EU), asylum seekers and refugees and people of other immigration status.

<sup>3</sup> McVeigh & McAfree, "Za Chlebem": The Impact of the Economic Downturn on the Polish Community in Northern Ireland' (Polish Association, NICEM 2009) p15

## 2. Equality and Human Rights Context

Victims of trafficking for the purposes of sexual exploitation, forced labour, domestic servitude, and other forms of exploitation are routinely subjected to human rights violations which inflict tremendous physical and psychological harm<sup>4</sup>. However, victims of human trafficking are often powerless and invisible due to under-reporting and the negligible prosecutions for related offences fosters a culture of impunity for perpetrators.

In response to these challenges, the UK is obligated to comply with the EU Directive 2011/36/EU on *preventing and combating trafficking in human beings and protecting its victims*. The UK is also a party to both the Council of Europe (CoE) *Convention on Action against Trafficking in Human Beings* and the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children: Palermo Protocol* in addition to other instruments relating to violence against women and girls and forced labour. Moreover, it is essential the policy and legislative response to human trafficking conforms with a human rights based approach centred on 3 Ps: Prosecution of traffickers; Prevention of human trafficking; and Protection of trafficking victims. NICEM note the lack of focus on the rights of the victim and access to justice throughout the consultation document, and the omission of the recent EU Directive establishing minimum standards on the rights, support and protection of victims of crime which complements the 2011 Directive<sup>5</sup>.

## 3. Consolidation of Existing Offences

NICEM endorse proposals from the Department of Justice to consolidate and simplify existing offences which criminalise trafficking for the purposes of sexual exploitation, forced labour and other forms of exploitation, which remain fragmented across disparate pieces of legislation. NICEM recommend the following provisions are repealed and replaced with a single consolidated trafficking offence:

- Sections 57 to 59 of the Sexual Offences Act 2003
- Section 71 of the Coroners and Justice Act 2009
- Section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004

At present, Sections 57 to 59 of the Sexual Offences Act 2003 (the 2003 Act) prohibits attempts by a person to intentionally arrange or facilitate the arrival or entry into the UK of another person with the intent of sexual exploitation, or in the belief that another person is likely to exploit them sexually upon arrival. Section 4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 criminalises human trafficking in respect of all forms of non-sexual exploitation, including forced labour, forced criminality, forced begging, domestic servitude or organ harvesting. Section 71 of the Coroners and Justice Act 2009 makes it an offence to knowingly hold someone in slavery or servitude or to require them to perform forced or compulsory labour. These offences apply to both internal trafficking and extend the extra-territorial scope of trafficking offences in cases where victims are trafficked outside of the UK.

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<sup>4</sup> <http://www.theguardian.com/global-development/2014/apr/08/modern-slavery-bill-sweeping-changes>

<sup>5</sup> [Directive 2012/29/EU].

In addition, there have been a number of recent reform proposals surrounding human trafficking legislation. The Criminal Justice Bill (CJA) was passed by the NI Assembly in April 2013 with the aim of bringing the UK into compliance with the EU Directive 2011/36/EU on *preventing and combating trafficking in human beings and protecting its victims*. It introduced an extraterritorial jurisdiction clause to ensure UK nationals and habitual residents in Northern Ireland who traffic victims from within and outside of the UK can be prosecuted, and criminalised internal trafficking for the purposes of non-sexual exploitation. However, NICEM expressed its concerns to the Justice Committee over the limited scope of clause 5 and 6, which criminalise acts of “arranging” or “facilitating” the movement of persons within and outside UK, rather than adhering to the broader definition in Article 2(1) of the EU Directive. This view is supported by the CoE Convention monitoring body (GRETA) in its recent evaluation report on the UK’s compliance with the Convention published on 12 September 2012. The 2013 Act was followed swiftly by the introduction of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill by Lord Morrow in June 2013 which sought to remedy deficiencies in the CJA by consolidating recovery, support and reintegration mechanisms for victims of trafficking and criminalising the purchase of sexual services from prostitutes or victims of trafficking<sup>6</sup>. Deficiencies in this legislation will be scrutinised in more detail below.

In light of the piecemeal and fragmented legislative framework governing trafficking offences, it is essential to introduce a consolidated offence which adopts a broad and inclusive definition of ‘exploitation’ in compliance of Article 2(3) of the Directive:

*Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.*

A robust definition covering all elements of trafficking will assist with law enforcement and aid prosecution in terms of identification of victims and indeed offenders. According to the Council of Europe monitoring body, GRETA, steps should be taken to “address the consequences of having numerous pieces of legislation on human trafficking” and point out that “dedicated legislation ... would provide legal status to victims of trafficking ... which reflect the human rights based approach to action against trafficking”.

#### **4. Preparatory Offences**

NICEM recognise the importance of criminalising of preparatory offences relating to trafficking for the purposes of sexual and non-sexual exploitation, including aiding, abetting, counselling and procurement, which should be triable summarily before the Magistrates court. More severe preparatory offences such as kidnapping, false imprisonment and assault should only be triable on indictment and include a maximum sentence of life imprisonment. In this respect, Article 66 of the Sexual Offences (Northern Ireland) Order 2008 should be repealed and expanded to criminalise preparatory offences for trafficking for the purposes of all forms of exploitation.

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<sup>6</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/inthedock\\_final\\_small\\_file.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/inthedock_final_small_file.pdf)

## 5. Sentencing Framework

NICEM recognise that EU Member States are obligated to provide an effective remedy to victims of human trafficking and ensure that sanctions leveled on perpetrators of trafficking are effective, proportionate and carry dissuasive effect.

NICEM therefore support the proposal for the offence of slavery, servitude, forced or compulsory labour to be triable on indictment alone before the Crown Court to reflect the severity of the offences, safeguard access to justice for victims, enhance protection of the public and provide a sufficient deterrent to traffickers. Indeed, if trafficking cases were permitted to be tried summarily before the Magistrate's Court, the severity and effectiveness of sanctions would be diminished. NICEM also endorse the proposal that trafficking offences should attract life imprisonment rather than 14 years. This approach would strengthen release and recall arrangements, and better protect potential victims and the wider public.

NICEM is concerned that p.32 of the consultation document is misleading in suggesting that trafficking offences must be captured in Serious Offences under paragraph 28 of Schedule 1 to the Criminal Justice (Northern Ireland) Order 2008 (the 2008 Order) for the offender released on license to be subject to public protection measures and supervision. The public protection arrangements under the Life Sentences (Northern Ireland) Order 2001 apply to all life prisoners released on license rather than simply those designated as 'dangerous' to the public. Indeed, the only additional public protections afforded under the 2008 Order involve arbitrary extension of the duration of confinement. The implication is that the imposition of discretionary life sentences or indeterminate custodial sentences are the only effective mechanism to safeguard the public from harm. However, these sentences contravene international human rights standards on the basis that they are excessively punitive, exceed the threshold of proportionality, increase the likelihood of extreme miscarriages of justice and may be exploited to deprive offenders of liberty indefinitely, negating the prospect of rehabilitation or release.

Moreover, the European Court of Human Rights have ruled that indeterminate life sentences are unlawful if they deprive offenders of access to rehabilitation programmes required to be considered for release<sup>7</sup>. Indeed, the Ministry of Justice in the UK have confirmed its intention to abandon indeterminate life sentences and replace them with severe fixed term sentences<sup>8</sup>. NICEM recognise that whilst trafficking offences often involve severe violations of human rights standards, they should be omitted from the scope of paragraph 28. This approach would promote consistency across the UK and enhance compliance with international human rights standards. Uniformity in sentencing provisions with the rest of the UK would also prevent certain regions of the UK providing more favourable and appealing conditions for traffickers to operate.

## 6. Civil Orders

NICEM welcomes consideration of how to improve public safety and safeguard potential victims from dangerous offenders through the imposition of civil orders. It may be necessary to restrict or regulate the activities of perpetrators of human trafficking offences to mitigate

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<sup>7</sup> <http://www.bbc.co.uk/news/uk-19630617>

<sup>8</sup> <http://www.theguardian.com/law/2012/sep/18/strasbourg-judges-indeterminate-sentences-unlawful>

the risk of recidivism and harm to potential victims. Indeed, the use of Sexual Offences Prevention Order (SOPO) and Serious Crime Prevention Order (SCPO) may not be sufficiently targeted to address the specific challenges of human trafficking offences. However, the Department should provide immediate and detailed clarification over the definition and scope of 'offending behaviour' as the threshold for Slavery and Trafficking Prevention Orders (STPOs) and Slavery and Trafficking Risk Orders (STROs) being imposed. NICEM are concerned that without comprehensive guidelines, civil orders may be imposed in an arbitrary manner, which is neither appropriate or proportionate. Therefore, it is strongly recommended that they be instituted on a time-bound basis through a pilot programme. Indeed, the roll out of STPOs and STROs should be rigorously scrutinised and monitored, and disaggregated data should be collected on the ethnicity of recipients.

Moreover, NICEM are concerned that without sufficient regulation and guidelines, the expansion in the use of civil orders may have adverse implications on vulnerable groups, particularly in light of the differential imposition of Anti-Social Behaviour Orders (ASBOs) on ethnic minorities. Indeed, recent evidence indicates that ASBOs are routinely imposed for trivial annoyances and have been used to target ethnic minorities, who are disproportionately represented in the criminal justice system. Indeed, there is growing evidence of the disproportionate use of ASBOs on ethnic minority groups (i.e. particularly in the Traveller and Roma communities), children and young people, people with disabilities, people with mental health issues and individuals with complex needs who struggle with substance misuse and alcohol dependency<sup>9</sup>. For example, certain forms of anti-social behaviour are a manifestation of a disability which is misunderstood by police<sup>10</sup>. Indeed, findings from a recent Parliamentary briefing from Liberty in 2013 reinforce the 'frighteningly low trigger for an ASBO to be imposed'<sup>11</sup>. In 2008, a 99 year ASBO was imposed on a 49 year old homeless alcoholic who suffered from mental health problems or in 2004, a profoundly deaf 17 year old girl breached the terms of her ASBO by spitting in the street and was served with a custodial sentence and imprisoned<sup>12</sup>. Similarly to ASBOs, the stated intention of these new civil orders is 'pre-emptive' and targets individuals exhibiting the 'earliest stages of behaviour'. In addition to establishing an alarming low threshold for imposing STPOs and STROs, the proposed restrictions on recipients are extensive and may have unforeseen implications; criminalising the recipient for seeking to attend a family funeral or wedding when it involves 'travelling to a foreign country'. In addition NICEM support the recommendation of the Department of Justice that STPOs and STROs should not be imposed on children under 18.

## **7. Immigration Control and Secondary Victimisation of Trafficking Victims**

Significant deficiencies persist in the effectiveness of identifying victims through the National Referral Mechanism and the attendant denial of access to justice for victims in Northern Ireland. Indeed, the persistence of racial profiling and increasingly aggressive role of

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<sup>9</sup><http://www.housingrights.org.uk/sites/default/files/policydocs/HRS%20Response%20to%20DSD%20Anti%20Social%20Behaviour%20Mar14%20%283%29.pdf> p2

<sup>10</sup> *Barber v Croydon LBC* [2010] EWCA Civ 51.

<sup>11</sup> Briefing on Anti-Social Behaviour Bill (LIBERTY February 2013) p5-6

<sup>12</sup><http://www.heraldscotland.com/homeless-alcoholic-s-99-year-asbo-absurd-1.896970#>  
<http://www.independent.co.uk/news/uk/crime/a-generation-of-troubled-youngsters-criminalised-535533.html>

immigration enforcement and removal under Operation Gull represents a disturbing development. There is also evidence of prima facie discrimination in the drastic discrepancies in positive conclusive ground outcomes for UK and EEA nationals when compared against third country nationals with insecure immigration status. Indeed, there are concerns that the fast-tracking of asylum and immigration proceedings would deprive victims of their entitlement to the full recovery and reflection period of 45 days. Furthermore, the expertise deficits and lack of specialisation of frontline officers investigating trafficking cases following recent reforms is a further ground for concern. It remains to be seen whether the adoption of an information sharing protocol across devolved and non-devolved government departments coupled with the roll out of Operational Eagle by the PSNI from October 2013 will help to address deficiencies in existing data collection and data interrogation methods within Northern Ireland to provide a more accurate picture of the nature and scale of human trafficking in Northern Ireland.

There is some evidence of cross-jurisdictional coordination between the PSNI and the Garda Síochána in the Republic of Ireland (ROI). However, UKBA 'Operation Gull', which monitors the movement of irregular migrants across the land border and is ongoing, has been subject to vigorous opposition for the intrusive interrogation of detainees which is likely to aggravate trauma and distress experienced by victims of trafficking<sup>13</sup>. Moreover, it is essential that measures are taken to minimise the risk of secondary victimisation<sup>14</sup>. In addition, the reliance on crude racial profiling and the increasingly aggressive approach to immigration enforcement and instigation of removal proceedings is evident in the 'increased detection of "illegal immigrants" by over 60%, with over 70% of the 300 or so people intercepted... removed from the UK' in 2012<sup>15</sup>. Furthermore, the clandestine nature of operations at airports and ports often lack transparency. This is compounded by the minimal public disclosure of information on the number of people detained and/or removed from Northern Ireland without access to independent legal advice to determine whether they have been detained lawfully or whether they may be a victim of trafficking or a potential refugee.

## **8. Human Trafficking for the Purposes of Forced Labour**

A critical area of concern is forced labour and trafficking for the purposes of labour exploitation. It is essential that the adoption of a consolidated offence on human trafficking for the purposes of sexual and non-sexual exploitation captures forced labour offences. Indeed, this is especially important in light of recent research undertaken by the Joseph Rowntree Foundation on the vulnerability of migrant workers to forced labour within Northern Ireland, which identified the 'greatest concentrations of problems in the fishing and mushroom-growing industries respectively, involving EU accession state female workers and male Filipino migrants'<sup>16</sup>. The study highlighted issues of restricted movement and confinement, rural isolation, debt bondage, unlawful withholding of wages, retention of passports to inhibit escape and recurrent threats of denunciation to the authorities on the

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<sup>13</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/inthedock\\_final\\_small\\_file.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/inthedock_final_small_file.pdf) p125

<sup>14</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/h/hidden\\_in\\_plain\\_sight.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf) p56

<sup>15</sup> OCTF 2012 Annual Report and Threat Assessment

<sup>16</sup> Alistair Geddes & Others, *JRF Programme Paper: Forced Labour in the UK* (University of Bristol: June 2013) p10

basis of irregular immigration status<sup>17</sup>. In addition, the International Transport Workers Federation (ITF) and BBC have also reported incidents of forced labour abuses where migrant fisherman have faced 'extreme maltreatment', including limited access to adequate food and sanitation facilities, physical violence and intimidation, excessive working hours, abandonment in foreign ports and denial of repatriation by boat owners<sup>18</sup>.

NICEM are concerned that despite the inherent vulnerability of victims of trafficking to forced labour, there is a diminished level of protection afforded to non-EEA nationals under European and international law. The UK has opted out of a number of Council Directives which protect migrant workers. For example, Directive 2009/52 introduces employer sanctions (e.g. mechanism to recoup unpaid wages, improved enforceability of employment contracts) and the Directive 2004/81 would allow for residence permits to be granted to victims of trafficking<sup>19</sup>. Furthermore, the UK is yet to ratify the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990) or the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143).

NICEM recommend for existing forced labour offences contained in the Immigration and Asylum (Treatment of Claimants etc.) Act 2004 and Section 71 of the Coroners and Justice Act 2009 to be consolidated under a single trafficking offence.

In its Circular 2010/07, the Ministry of Justice sought to confine the scope of 'forced labour' for the purposes of criminal prosecution, insisting that a 'element of coercion or deception between the defendant and the victim must be established' and the 'defendant must also know that the arrangement was oppressive and not truly voluntary, or had been wilfully blind to the fact'. For the purposes of consistency, the definition of 'forced labour' should correspond with Article 2 of the International Labour Organization (ILO) Convention No. 29 (1930):

Article 2 defines 'forced labour' as 'all work or service that is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily'.

The ILO have also released a series of 12 authoritative indicators of forced labour<sup>20</sup> to raise awareness and improve visibility of key issues, which include the abuse of vulnerability; deception, restriction of movement; isolation, physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions and excessive overtime. These key indicators are clearly triggered by evidence emerging on the conduct of employers of migrant workers across Northern Ireland, and the UK more broadly. Forced labour is also prohibited under a number of international human rights instruments. Indeed, Article 4 (1) of the European Convention on Human Rights (brought into domestic force under Human Rights Act 1998) states that 'no one shall be held in slavery or servitude' or (2) 'be required to perform forced or compulsory labour'. In addition, Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking

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<sup>17</sup> Allamby & Others, Forced Labour in Northern Ireland: Exploiting Vulnerability (JRF 2011) p5

<sup>18</sup> ITF (2008) Migrant Workers in the Scottish and Irish Fishing Industry p2

BBC News (2008) Filipino Fisherman Suffer Abuse

<sup>19</sup> Dwyer & Others, Forced labour and UK immigration policy: status matters? (2011) p9

<sup>20</sup> ILO Indicators of Forced Labour (Special Action Programme to Combat Forced Labour 2013)

[http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/WCMS\\_203832/lang--en/index.htm](http://www.ilo.org/sapfl/Informationresources/Factsheetsandbrochures/WCMS_203832/lang--en/index.htm)



in Persons, Especially Women and Children states:

Article 3 of the UN Protocol on human trafficking links three elements: certain activities (including recruitment, transportation, transfer, harbouring or receipt of a person); via particular means (including force, deception, coercion, fraud, threats, abuse of power or position of vulnerability, and the giving of payments or benefits to a person in control of the victim); for the purpose of exploitation (including exploitation of the prostitution of others, sexual exploitation, forced labour, slavery or similar, or removal of organs).

NICEM also recommends that the DOJ work with the other jurisdictions of the UK to ensure consistency of definitions, we are concerned that if provisions are stronger in one jurisdiction that problems may be disproportionately displaced to another.

## **9. The Limitations of National Referral Mechanism (NRM)**

The current system for the identification and protection of victims of trafficking and provision of support in NI is not sufficiently victim-centred. Statutory bodies such as Social Services and the Gangmaster's Licensing Authority are capable of making referrals though none have been made to date<sup>21</sup>. To strengthen this process, NICEM endorse the Department's recommendation that a statutory duty be imposed on public sector First Responders in Northern Ireland to report all suspected cases of human trafficking to the UKHTC for the purposes of data collection, provided that this information should be anonymised where an adult potential victim has not consented to this referral.

It is important to note that in 2012 there was a drastic discrepancy between the outcome of cases of suspected trafficking between EEA nationals and third country nationals by Competent Authorities. Indeed, 80% of cases processed by the UK Human Trafficking Centre CA (i.e. predominately UK/EEA Nationals) received positive conclusive grounds, whilst less than 20% of cases of non-EU/EEA Nationals suspected to be victims of trafficking referred to the UK Border Agency (i.e. Home Office UK Visas) received a positive reasonable grounds decision. Furthermore, it is likely that victims with insecure immigration status would be reticent to make a self-referral due to fears over deportation. In addition, current trafficking legislation is fragmented and the scarcity of existing case-law generates gaps in legal expertise on trafficking cases. It also risks subjecting victims to asylum and immigration procedures rather than addressing their needs as victims of crime, which is highly likely to exacerbate trauma<sup>22</sup>.

Especially in light of the fact that immigration remains a reserved matter and that the authorities deemed competent to make a decision on who has been trafficked remain the UK Human Trafficking Centre and the Home Office. NICEM is concerned that the Home Office remains as a competent authority, a UK wide oversight mechanism would be able to independently assess the appropriateness of the current NRM arrangements and their compliance with Article 4 ECHR.

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<sup>21</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/inthedock\\_final\\_small\\_file.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/inthedock_final_small_file.pdf) p123

<sup>22</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/h/hidden\\_in\\_plain\\_sight.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf)

The Serious Organised Crime Agency (SOCA) published its annual strategic assessment on human trafficking, which indicated that only half of suspected trafficking victims were referred to the NRM. Indeed, trafficking data collection has been the subject of an inquiry by the All-Party Parliamentary Group on Human Trafficking and Modern Slavery, which recommended that the Home Office UK, Visas be removed as a competent authority.<sup>23</sup> Moreover, a recent report by the Anti-Trafficking Monitoring Group (ATMG) identified an alarming decrease in the number of potential victims referred to the NRM from Northern Ireland (i.e. only 8 cases referred from Northern Ireland between April 2012 – January 2013<sup>24</sup>) and the lack of access to justice for victims with only two successful convictions for trafficking offences in Northern Ireland in September 2013<sup>25</sup>. This can be attributed in part to ‘structural changes within the PSNI in 2011’ which entrusts the ‘identification of victims and NRM referrals [to the reporting of sporadic encounters by frontline officers who have until recently only been provided with an optional online training module rather than specialised training]; rather than undertaking ‘targeted and proactive investigations’ through dedicated human trafficking teams<sup>26</sup>.

## 10. Deficiencies in Lord Morrows Bill

The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill adopts similar provisions to anti-trafficking legislation in Malaysia and Finland by providing immunity to victims who have been coerced into committing criminal offences as a direct result of being trafficked<sup>27</sup>. However, Clause 8 imposes restrictive and arbitrary criteria (i.e. satisfaction of one of eight conditions) which are not contained in the wording of Article 8 of Council Directive 2011/36/EU. These additional caveats limit the level of protection available to victims of trafficking who may be disinclined to make a self-referral due to concerns over being prosecuted for cases of forced criminality, particularly in cases of cannabis cultivation. The Bill has also been subject to criticism for its failure to introduce offences for trafficking for the purposes of non-sexual exploitation, including forced labour and domestic servitude. The severely restricted scope of the Bill does not fulfill the immediate need for a consolidated piece of legislation which prohibits human trafficking for the purposes of all forms of exploitation. The Bill also fails to reflect the equal treatment afforded to different manifestations of trafficking under Article 6 of CEDAW, which compels State Parties to suppress “all forms” of trafficking in women. There are concerns the legislation is overly moralistic by seeking to conflate criminalisation of prostitution with trafficking offences. The reforms envisaged in the current consultation are wide-ranging and deviate considerably

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<sup>23</sup> All-Party Parliamentary Group on Human Trafficking and Modern Day Slavery, *Inquiry into the Collection, Exchange and Use of Data About Human Trafficking and Modern Slavery*, 2014. Available at: <http://www.lscbchairs.org.uk/sitedata/files/APPGTraffickingFINALInquir.pdf>

<sup>24</sup> SOCA, *UKHTC: A Strategic Assessment on the Nature and Scale of Human Trafficking in 2012, 2013*, p.5. Available at: <http://www.nationalcrimeagency.gov.uk/publications/15-ukhtc-strategic-assessment-on-human-trafficking-in-2012/file>

<sup>25</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/h/hidden\\_in\\_plain\\_sight.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/h/hidden_in_plain_sight.pdf) p54

Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Brings by the United Kingdom (September 2012)

<sup>26</sup> [http://www.antislavery.org/includes/documents/cm\\_docs/2013/i/inthedock\\_final\\_small\\_file.pdf](http://www.antislavery.org/includes/documents/cm_docs/2013/i/inthedock_final_small_file.pdf) p123

<sup>27</sup> Chapter 17, Section 7(2) of the Criminal Code of Finland; Section 25 of the Anti-Trafficking in Persons Act 2007

from provisions within Lord Morrow's Bill. On this basis, it would be infeasible to appropriate Lord Morrows Bill as a vehicle to implement recommended amendments to the legislative and sentencing framework governing human trafficking in Northern Ireland. Indeed, it is essential that the level of protection against human trafficking should be consistent across the UK, and that Northern Ireland not provide more favourable conditions for traffickers to operate.

### **Further Information**

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