



HOUSE OF LORDS

Library Note

Debate on 14 October: Human Trafficking

This Library Note provides background reading for the debate to be held on Thursday 14 October:

“To call attention to the case for Government strategies to tackle human trafficking”

It provides definitions and statistics on human trafficking both globally and in the UK, and outlines domestic and international policy to combat the problem.

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1. Introduction

In March 2007, the United Nations launched *The Global Initiative to Fight Human Trafficking*. The press release in support of the initiative quotes Antonio Maria Costa, UN Office on Drugs and Crime (UNODC) Executive Director, describing human trafficking as “a booming international trade”, adding that “perhaps we simply prefer to close our eyes to it, as many law-abiding citizens buy the products and the services produced on the cheap by slaves”. The press release describes how:

Trafficked men are found in fields, mines and quarries, or in other dirty and dangerous working conditions. Boys and girls are trafficked into conditions of child labour, within a diverse group of industries, such as textiles, fishing or agriculture.

[\(UN News Centre, 'UN and partners launch initiative to end 'modern slavery' of human trafficking', 26 March 2007\)](#)

At the root of human trafficking then are real people. To illustrate this, below are some cases that demonstrate the impact it has on its victims, highlighted by Amnesty International.

1.1 Sexual Exploitation

'Maryam' was ostracised by her family when she refused to undergo female genital mutilation prior to a likely forced marriage after her twin sister had died of the same procedure in Africa. She was picked up by a child trafficker at age 13 and brought to London where she was locked in a basement and suffered repeated rape as a child prostitute. At 19, possibly being now too 'old' for her trafficker's clients, he provided her with false documents and let her go. She tried to leave the country on those documents and was arrested and convicted. She served a 10-month prison sentence. Although she was keen to see her trafficker brought to justice, the police response has been very slow and inadequate to date.

1.2 Forced Labour

In February 2004, a group of Greek workers were brought to Cornwall to pick daffodils for major retailers including Marks and Spencers. They had to work 10 hours a day in snow and rain, they were given cans of dog food to eat and were accommodated in tents and unheated sheds. They alleged that they had been beaten and threatened at gunpoint before they managed to escape.

1.3 Debt Bondage

Jin Lai, 16, was found on the street and taken to the police station. He had been living and working in a restaurant seven days a week before he managed to run away. Jin was living in debt-bondage, forced to work for free until he had 'paidoff' those who had arranged his family's passage to the UK (UNICEF, 2005).

1.4 Domestic Work and Sexual Abuse

Adina's parents died when she was 15 and she went to work on her Aunt's market stall. One day her Aunt told her to go with 2 men who would bring her to

the UK for 'a better life'. Here, she was taken to a house where she was locked up and forced to perform all domestic labour. She was also raped. She was kept locked in the kitchen with access to a toilet and basin only and did not know where she was. She was 17 by the time she managed to escape (UNICEF 2005).

[\(Amnesty International Fact Sheet, 'Trafficking Cases'\)](#)

2. Definitions

2.1 Human Trafficking

The most widely used definition of human trafficking is found in article 3, paragraph (a) of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons* (2000). This was adopted by the UN at Palermo, Italy and is often referred to as the Palermo Protocol. Here human trafficking is defined as:

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

[\(UNODC website, 'What is Human Trafficking?'\)](#)

The UN definition then covers a broad range of conduct. The US State Department also includes child soldiers, which "can be a manifestation of human trafficking where it involves the unlawful recruitment or use of children—through force, fraud, or coercion—as combatants or for labor or sexual exploitation by armed forces. Perpetrators may be government forces, paramilitary organizations, or rebel groups. Many children are forcibly abducted to be used as combatants" ([US State Department, *Trafficking in Persons Report*, June 2010, page 11](#)).

Human trafficking then has three constituent parts: the act, the means and the purpose. Although human trafficking may be perceived as operating on a large commercial scale, often it can be committed by a single person who already knows the victim. Indeed the Crown Prosecution Service (CPS) has said that the means used by a sole perpetrator are often subtle:

For example, victims may have an emotional attachment to their trafficker and may be psychologically bullied or coerced into a situation of exploitation. Or they may be totally dependent on those who are victimising them.

[\(CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, page 4\)](#)

2.2 Smuggling

The CPS make a clear distinction between human trafficking and smuggling. Both are crimes but the difference is that the latter is perceived to take place with the consent of the person being smuggled. CPS guidance suggests three factors that can help distinguish the two:

- **Consent**—smuggling is a voluntary act and there is normally little coercion/violence involved or required from those assisting in the smuggling.
- **Exploitation**—there is no exploitation by the smugglers of their victims once they reach their destination, effectively their relationship ends on arrival at destination; trafficking victims on the other hand are subjected to a cycle of exploitation.
- **Profits for smuggling** are derived primarily from transportation and facilitation of illegal entry in another country, whereas traffickers profit primarily from the exploitation of their victims.

It is noted however that in some cases “the distinction between a smuggled and trafficked person will be blurred and both definitions could easily be applied”. Equally, a person could start their journey being smuggled and then trafficked on arrival ([CPS, Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking, July 2010, page 6](#)).

2.3 What is not trafficking in persons?

The US State Department issues an annual report that examines progress made around the world in addressing human trafficking. The recent *Trafficking in Persons Report* (June 2010) lists four activities that are not defined as human trafficking:

- **Illegal adoptions:** The kidnapping or unlawful buying/selling of an infant or child for the purpose of offering that child for adoption represents a serious criminal offense, but it is not a form of human trafficking, as it does not necessarily involve the use of force, fraud, or coercion to compel services from a person. As stated in the travaux préparatoires of the Palermo Protocol, only “where illegal adoption amounts to a practice similar to slavery... it will also fall within the scope of the Protocol”.
- **The trade in human organs:** The trade in human organs—such as kidneys—is not in itself a form of human trafficking. The international trade in organs is substantial and demand appears to be growing. Some victims in developing countries are exploited as their kidneys are purchased for low prices. Such practices are prohibited under the Palermo Protocol, for example when traffickers use coercive means, such as force or threats of force to secure the removal of the victim’s organs.
- **Child pornography:** Sex trafficking of children can involve several different forms of exploitation, including the production of child pornography. However, the production of sexual images representing children—which increasingly includes drawings and computer-generated images—is not sex trafficking unless a child is actually induced to perform a commercial sex act for the purpose of producing the pornography.

Distribution and possession of child pornography, while often criminally prohibited, are not acts of human trafficking.

- **Prostitution:** Prostitution by willing adults is not human trafficking regardless of whether it is legalized, decriminalized, or criminalized. However, pursuant to the TVPRA [Trafficking Victims Protection Reauthorization Act] of 2008, the definitions of human trafficking under U.S. law are not construed to treat prostitution as a valid form of employment. The TIP [Trafficking in Persons] Report evaluates the efforts of countries with legalized prostitution to reduce the demand for commercial sex acts as part of its assessment of the countries' serious and sustained efforts to eliminate severe forms of trafficking in persons.

[\(US State Department, *Trafficking in Persons Report*, June 2010, page 9\)](#)

3. Trafficking Statistics

3.1. Global

Accurately estimating the number of humans trafficked globally is difficult, largely because of its hidden nature. However, the US State Department offers this snapshot of its estimated scale:

- Adults and children in forced labor, bonded labor, and forced prostitution around the world: 12.3 million
- Successful trafficking prosecutions in 2009: 4,166
- Successful prosecutions related to forced labor: 335
- Victims identified: 49,105
- Ratio of convicted offenders to victims identified, as a percentage: 8.5
- Ratio of victims identified to estimated victims, as a percentage: 0.4
- Countries that have yet to convict a trafficker under laws in compliance with the Palermo Protocol: 62
- Countries without laws, policies, or regulations to prevent victims' deportation: 104
- Prevalence of trafficking victims in the world: 1.8 per 1,000 inhabitants
- Prevalence of trafficking victims in Asia and the Pacific: 3 per 1,000 inhabitants

[\(US State Department, *Trafficking in Persons Report*, June 2010, page 7\)](#)

The United Nations International Labour Organisation (ILO) estimates that of the 12.3 million forced into labour 2.4 million are trafficked. They also note that it is generally assumed the majority of victims are largely trafficked for commercial sexual exploitation. However, they found that while 43 per cent were trafficked for sexual exploitation, 32 per cent of all victims were trafficked into labour exploitation and 25 per cent for a mixture of both ([ILO, *ILO Action against Trafficking in Human Beings*, 2008, page 3](#)).

The data available also gives an indication of the profile of trafficking victims. In terms of gender and age, the ILO found "Women and girls make up the overwhelming majority of those trafficked for the purpose of sexual exploitation (98 per cent)" (*ibid*, page 3). It has been suggested that as many as 1.2 million children are trafficked every year ([UNICEF website, 'Child protection from violence, exploitation and abuse'](#)).

Criminal justice data gives a different insight into the scale of the issue. Following the Palermo Protocol coming into effect in 2003, a United Nations Office on Drugs and Crime (UNODC) report found 91 countries (57 per cent of the reporting countries) reported “at least one human trafficking prosecution, and 73 countries reported at least one conviction. A core of 47 countries reported making at least 10 convictions per year, with 15 making at least five times this number” ([UNODC, Global Report on Trafficking in Persons, February 2009, page 8](#)).

International organisations have called for more harmony between countries in data collection. The ILO has said the biggest challenge “is to generate reliable national statistics... This is important because the numbers of prosecuted trafficking cases and identified victims remain low while country estimates contain high margins of error” ([ILO, ILO Action Against Trafficking in Human Beings, 2008, page 4](#)). UNODC points also to the inconsistency in data collection: “Too often, even similarly situated countries with compatible legal systems are counting different things. There is also a need to encourage Member States to collect more and better information on the state of human trafficking in their countries. Some countries could cite the number of victims or offenders, for example, but had no data on the gender, age or citizenship of these people” ([UNODC, Global Report on Trafficking in Persons, February 2009, page 11](#)).

3.2. United Kingdom

The availability of data on the scale of trafficking in the UK is also limited. In 2008–09 the House of Commons Home Affairs Select Committee conducted an inquiry into the UK trade in humans. The Committee found that neither the non-governmental organisations (NGOs) nor the government agencies they asked were willing “even to guess” the total number of trafficking victims in the UK. The Poppy Project suggested that data collection was limited because the illegality of trafficking makes it hard to detect, victims are often too afraid to speak up and key agencies fail to cooperate effectively. The Committee admitted in their report:

The nearest we came to an overall total was when we added up the result of these studies and suggested to Anti-Slavery International that they implied that there were more than 5000 victims in the UK; Anti-Slavery International concurred.

To put these figures into context, the Committee were told that the European Commission estimates between 100,000 and 800,000 people are trafficked into the EU every year ([House of Commons Home Affairs Select Committee, The Trade in Human Beings: Human Trafficking in the UK, 14 May 2009, HC 23–I, session 2008–09, p 14](#)).

Other data illustrate the scale of the problem. The Committee referred to research found in the Government’s *UK Action Plan on Human Trafficking* that estimated “that the size of the UK market for human trafficking for sexual exploitation was up to £275million in 2003. The research also estimates that in 2003 there were up to 4,000 women in the UK that had been trafficked for sexual exploitation. The total economic and social cost of human trafficking for sexual exploitation in the UK was estimated to be up to £1billion in 2003” (*ibid*, page 20).

In August 2010, the Association of Chief Police Officers (ACPO) released research that found around 17,000 of 30,000 women involved in off-street prostitution are migrants. Of this figure 2,600 women were deemed to have been trafficked, largely from Asia ([ACPO Press Release, 'ACPO publishes report on trafficking of migrant women in off-street prostitution', 18 August 2010](#)). Last year the number of children trafficked into the UK was believed to be around 325 ([HL Hansard, 27 July 2010, col 1226](#)).

The available criminal justice data also provide a snapshot of the prevalence of trafficking in the UK. In a letter to Lord Elystan-Morgan, Baroness Neville-Jones, the Home Office Minister, gave CPS statistics that showed in 2007–08 there were 87 prosecutions of traffickers. In 2008–09 there were 114 prosecutions. The letter also provided the number of convictions: 18 in 2007, 38 in 2008 and 35 in 2009. A further 35 cases of human trafficking are currently progressing through the criminal justice system ([Letter from Baroness Neville-Jones to Lord Elystan-Morgan, 25 August 2010, DEP2010-1658](#)).

4. Anti-Trafficking Policy in the UK

In March 2007 the Government published the [UK Action Plan on Tackling Human Trafficking](#). The Action Plan explained how the Government intended to “strike the right balance” in human rights and focus on the victims. The Government said they had established the UK Human Trafficking Centre to develop a “victim centred human rights based approach” and had signed the Council of Europe Convention on Action Against Trafficking in Human Beings (ECAT) to provide a framework for protecting victims. ECAT was signed by the UK in 2007. The Convention is summarised on the Council of Europe website:

The Convention is a comprehensive treaty mainly focussed on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers.

The Convention applies to all forms of trafficking; whether national or transnational, whether or not related to organised crime. It applies whoever the victim: women, men or children and whatever the form of exploitation: sexual exploitation, forced labour or services, etc.

The Convention provides for the setting up of an independent monitoring mechanism guaranteeing parties' compliance with its provisions.

([Council of Europe website, 'Summary of the Convention'](#))

Amnesty International described the Convention as “a critical step forward in protecting trafficked peoples' rights” by expanding “the scope of UN definition of trafficking (set out in the Palermo Protocol) to expressly include internal trafficking within the borders of one state and trafficking not necessarily involving organized criminal groups” ([Amnesty International Press Release, 'Amnesty International and Anti-Slavery International call on European States to Ratify the Council of Europe Convention against Trafficking', 30 December 2005](#)).

In addition to this the Action Plan highlighted that the Government's focus had been widened to tackle issues like forced labour and child trafficking. An immigration strategy to strengthen border controls and enhance the identification of trafficking victims would also be addressed (*ibid*, pp 4–7).

4.1 Anti-Trafficking Legislation

Since 2003 there has been specific anti-trafficking laws in force in the UK. The main criminal legislation used to bring human trafficking prosecutions is outlined below:

- **Sexual Offences Act 2003**

Sections 57, 58 and 59 create three offences of trafficking for the purposes of sexual exploitation. The offences cover trafficking another person into the UK (section 57), trafficking within the UK (section 58) and trafficking out of the UK (section 59) with the intention of committing a relevant sexual offence on that person. A relevant sexual offence is any offence under Part 1 of the Sexual Offences Act 2003 which includes rape, prostitution and sexual abuse. These offences apply equally to women and men. It also includes all child sex offences which are covered in more detail in the section Child Victims.

- **Asylum and Immigration (Treatment of Claimants) Act 2004**

Section 4 creates offences of trafficking another person into, within and out of the UK for non-sexual exploitation. This includes domestic servitude or forced labour, human organ donation or forcing or enabling another person to acquire a benefit. This can mean a state benefit, for example a child benefit, or any advantage derived by the trafficker, which could include financial gain or profit.

- **Immigration Act 1971**

Section 25 creates an offence of assisting unlawful immigration to a member state (known as 'facilitation'). It is a breach of immigration law by a non-EU citizen (including a breach of another Member State's immigration law). We will use this offence when someone has been smuggled into the UK, or where we cannot prove the nature of the exploitation (for example in cases of pro-active investigations where a victim has not yet been subject to exploitation) or when someone may have been trafficked into the UK before 2004 when human trafficking laws came into force.

[\(CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, pp 10–11\)](#)

The CPS is also able to disrupt traffickers' activity by seizing them of their assets, for example through recovery of assets under the Proceeds of Crime Act 2002.

4.2 United Kingdom Human Trafficking Centre (UKHTC)

The UKHTC was established in 2006 as a multi-agency organisation tasked with providing the development of expertise and the strategic and operational coordination in respect of all forms of trafficking of human beings. The House of Commons Home Affairs Select Committee was told:

One of the UKHTC's tasks has been to improve knowledge of the scale and nature of human trafficking. In its written evidence to us, the Home Office describes the UKHTC as "the central repository of all data and intelligence on human trafficking". Another function is increasing public awareness of trafficking,

in the hope of identifying and rescuing more victims. It recently ran a 'Blue Blindfold' campaign, including posters on public transport and television advertisements, which had the slogan 'Don't close your eyes to human trafficking'. As far as its operational work is concerned, the UKHTC is organised into five core working groups in the areas of victim care, prevention, research, learning and development and operations and intelligence.

[\(House of Commons Home Affairs Select Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 14 May 2009, HC 23-I, session 2008–09, page 6\)](#)

Since April 2010, UKHTC has been legally part of the Serious Organised Crime Agency (SOCA). However, the Home Affairs Select Committee established that "SOCA, however, devotes only 12 per cent of its effort to all organised immigration crime, which includes human trafficking but the majority of which falls into the category of people smuggling". In spite of this the Committee were told by the Home Office that "The model of working presented by the UKHTC is already being presented in international forums as an example of best practice. Although only in existence a short time it has established a good reputation both nationally and internationally" (*ibid*, page 7).

4.3 National Referral Mechanism (NRM)

The NRM was set up following the implementation of the ECAT in April 2009. The Convention created "provisions for support to victims through a forty-five day recovery and reflection period for all identified victims and temporary one-year renewable residence permits in circumstances where they assist the authorities or support criminal proceedings" ([CPS, *Public consultation on the CPS Public Policy Statement on Prosecuting cases of Human Trafficking*, July 2010, page 18](#)). The CPS has outlined what this means for victims of trafficking:

A first responder who encounters them can make a referral to either the UK Human Trafficking Centre or the UK Border Agency to access these provisions. The potential victim's case is considered and, if approved, the victim is given a 45 day reflection period during which time they are entitled to a range of support services, and will not be removed from the UK. Accommodation and support is provided through POPPY Project (for victims of sexual exploitation) and Migrant Helpline (for victims of labour exploitation). A number of individuals are also accommodated by charitable third sector support providers.

At the end of the reflection period, a conclusive decision will be made and if the victim does not have any leave to remain in the UK, they will be considered for a residence permit based on whether the victim is to support criminal proceedings, or whether their personal circumstances warrant a grant of leave to remain in the UK.

It should be noted that the referral form completed by a first responder recording their encounter with the victim may, in some circumstances, be disclosable to the defence as information on the form might go to the credibility of the victim or other prosecution witnesses.

(*ibid*, page 18)

The latest statistics on NRM referrals were given in a House of Commons written answer on 5 July 2010:

Between 1 April 2009 and 31 March 2010, 706 individuals have been referred into the National Referral Mechanism. The breakdown of reasonable grounds decisions are as follows:

	Number
Accepted	358
Not accepted	192
Reconsideration-accepted	3
Suspended	8
Withdrawn	23
No decision recorded	122
Total	706

[\(HC Hansard, 5 July 2010, col 77W\)](#)

A more detailed analysis of the referrals is available on the UKHTC website. This shows that of the 706 referred individuals 80 per cent were from outside the EU, 74 per cent were women and 25.4 per cent were identified as minors. The most common nationalities of those referred were Nigerian (123), Chinese (94) and Vietnamese (62) ([UKHTC, National Referral Mechanism: Statistical Data April 2009 to March 2010, 2010](#)).

4.4 Poppy Project

The POPPY Project was set up in 2003 to provide accommodation and support to women who have been trafficked into prostitution or domestic servitude. It has 54 bed spaces in houses nationally. The POPPY Project website states that in order to meet the criteria for their assistance women must have been:

- Trafficked to the UK; and
- Subsequently sexually exploited; or
- Subsequently exploited in domestic servitude.

If POPPY is unable to accommodate a woman there are other ways that the project can help. There are very few services offering specialist support for women who have been trafficked in the UK, so POPPY has developed partnerships with:

- Hostels working with homeless people;
- Refuges for victims of domestic violence;
- Embassies;
- Refugee Legal Centre;
- Immigration Advisory Service;
- Refugee Arrivals Project; and
- International Organization for Migration.

[\(POPPY Project website, 'Accommodation and Support'\)](#)

In March 2009, Vera Baird, the then Solicitor-General, announced in a written statement that the Government were “investing a further £3.7 million over the next two years into the POPPY project to help vulnerable victims of human trafficking”. The statement added: “This new investment will help meet the commitments of the Council of Europe convention on action against human trafficking which the UK ratified in December 2008, coming into force in April” ([HC Hansard, 24 March 2009, cols 10–12W](#)).

It is important to note that support for trafficked children is different. Baroness Neville-Jones told the House of Lords that:

Responsibility for the care, protection and accommodation of child trafficking victims falls under the statutory responsibilities of local authorities. They must ensure that the child’s needs are assessed, that they are placed in safe accommodation and that they are given social work support to plan for their care.

([HL Hansard, 27 July 2010, col 1225](#))

5. Perspectives

5.1 House of Commons Home Affairs Select Committee report (June 2009)

In its report, the Home Affairs Select Committee made a number of recommendations about how the UK’s anti trafficking regime could be improved. For example, it argued that prevention measures could be improved by “increasing public awareness of trafficking as a whole and of the different forms that it can take, including into ‘normal’ jobs”. They recommended there was a “need to train a variety of public officials—health service workers, social workers, building inspectors, health and safety inspectors and others—about the various indicators of forced labour and where to find help if they suspect someone has been trafficked”. Similarly, the Committee felt sectors in which victims are often employed—like the construction industry—needed to be looked at closely and immigration authorities “should actually use the sanctions against employers of unregistered workers as a disincentive to exploitation” ([House of Commons Home Affairs Select Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 14 May 2009, HC 23–I, session 2008–09, pages 75–6](#)).

The Committee also expressed its concern that the identification system was still geared toward viewing “trafficking as an immigration crime, coupling it with facilitation or people smuggling, which is completely different” (*ibid*, page 77). In terms of victim support the Committee urged more accommodation to be created, though it noted without a better estimate of the scale of trafficking “it is difficult to determine what extra services are needed” (*ibid*, page 80). Related to this, the report acknowledged the difficulty in prosecuting traffickers but suggested better provision of support might encourage victims to become witnesses” (*ibid*, page 81).

5.2 Eaves Housing for Women Report (June 2009)

In June 2009, Eaves Housing for Women published a report into the trafficking of women and contemporary slavery in the UK. The report found a “hesitancy” among governments of destination countries to “to address trafficking as a crime which violates the rights of vulnerable persons [which] stems from the perception of nationals of foreign states that migration into their countries is always desirable to the migrants”. It also

noted that in the UK trafficking meets a demand for cheap workers, particularly domestic labour ([Eaves Housing for Women, Of Human Bondage: Trafficking in Women and Contemporary Slavery in the UK, June 2009, page 7](#)). The report concluded with the following recommendations for Government:

8.1 Law and policy

Fully and adequately implement the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT).

Ratify the Convention on the Protection of All Migrant Workers and Members of their Families.

Commit to prosecuting, to the fullest extent of the law, any person who traffics someone into exploitative labour or otherwise benefits from the exploitation of a trafficked person.

8.2 Victim care and service provision

Maintain funding commitments to the Metropolitan Police Human Trafficking Team.

Increase efforts to identify and extend support provisions to all identified victims of trafficking, taking into account the need for specialised gender-sensitive services and a victim care-centred approach.

Increase efforts to identify persons trafficked for labour exploitation, including comprehensive training of front-line staff and other first responders.

Increase legal aid provisions available to victims of trafficking. Many women on the Operation Tolerance pilot could pursue multiple court cases: criminal cases for abuse, trafficking and false imprisonment; employment tribunal claims for back wages and violation of contract; and immigration claims for asylum. Making sure that women do not have to prioritise the different ways in which their rights have been violated when they access justice is essential, but will not be possible without adequate access to legal aid.

8.3 Awareness-raising

Ensure that identified victims of trafficking who came to the UK to pursue paid work and were led to believe that they were pursuing a legitimate offer of employment when they were deceived into coming to the UK are given the opportunity to apply for a valid work visa or to access work while in possession of a residence permit.

Guarantee that persons coming to work in the UK, and those seeking to hire foreign nationals, especially as migrant domestic workers, are aware of labour rights and policies in the UK. Of particular concern is ensuring that persons coming to work in the UK are aware of the minimum wage and of their right to change employer without compromising their immigration status. Employers need to be aware of their responsibilities in terms of pay and conditions, the fact that they cannot control the immigration status of their employee (i.e. "have them deported") and should know that coaching a potential employee into providing false information when applying for a visa or when entering the UK is a crime.

The government should also commit to prosecuting persons who commit such crimes.

In response to growing xenophobia and anti-immigrant sentiment in the UK, the government should take:

- Any and all necessary measures to prevent the creation and/or dissemination of misleading information relating to emigration and immigration;
- Any and all necessary measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families.

(*ibid*, page 41)

5.3 The Anti-Trafficking Monitoring Group Report (2010)

In May 2009, the Anti-Trafficking Monitoring Group was set up by a coalition of nine UK-based organisations to examine whether the Government and the devolved assemblies are “meeting their obligations under the Convention”. In June 2010 the Group published its findings. The Group argued that the UK Government’s anti-trafficking practice is “not compliant with the Council of Europe Convention on Action Against Trafficking in Human Beings [ECAT] and, where it relates to children, is not compliant with other aspects of UK law or best practice” ([Anti-Trafficking Monitoring Group Report, *Wrong Kind of Victim?*, June 2010, page 7](#)).

A press release stated that “the government’s flagship National Referral Mechanism is ‘flawed’ and possibly discriminatory, and operated by ‘minimally-trained’ UK Border Agency staff who ‘put more emphasis on the immigration status of the presumed trafficked persons, rather than the alleged crime against them” ([Amnesty International Press Release, ‘UK: Anti-trafficking measures ‘not fit for purpose’ and breach international law—new report’, 16 June 2010](#)). The report highlighted its research “about more than 130 individuals who were identified by support organisations between 1 April 2009 and 1 April 2010 whose cases were not referred to the system for a variety of reasons, but primarily because they did not see the benefit of being referred or were fearful of the consequences of being brought to the attention of the authorities because of their immigration status—a paradoxical situation, as it concerns precisely the same fear that traffickers often use to control their victims” ([Anti-Trafficking Monitoring Group Report, *Wrong Kind of Victim?*, June 2010, page 9](#)).

The report recommended that that the Government should reform the current system to:

Restructure and reduce the administrative process of the National Referral Mechanism in order to:

- act as a multi-agency identification and referral mechanism, increasing access to services for victims;
- introduce the right to appeal into the identification process;
- review the application of the definition of trafficking to ensure that it reflects the UK’s obligations under the Convention and is consistently applied to all victims of trafficking;
- in cases of children embed it into the child protection system and give the services responsible for child protection the authority to make decisions;

- give guidance on cases where the age of a young person is disputed and strictly apply the requirement of the benefit of the doubt.
1. Bring the system of identification and referral closer to the victims, on a devolved, regional and local level, building on the existing good practice multi-agency model.
 2. Introduce an independent and public review of all negative decisions made by the Competent Authority to ensure the accountability of decision-makers and the quality of decision-making.
 3. Ensure that no victims of trafficking are prosecuted for crimes that they committed while under coercion. In particular, stop child victims of trafficking from being prosecuted.
 4. Uphold the best interest of the child in all decisions and introduce a system of guardianship for children with explicit responsibility to represent the child's best interest.
 5. Appoint an independent anti-trafficking watchdog, based on the model of the Dutch National Rapporteur on Trafficking in Human Beings, with statutory powers to request information from the police, the immigration authorities, social services and NGOs and to report to the Parliament.

(*ibid*, page 14)

5.4 ECPAT Briefing on Safeguarding Children Trafficked to the UK (2010)

ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) is a children's rights organisation that campaigns for the protection of trafficked children. In a briefing paper they raised concerns about the "high numbers of children, largely from South East Asia, who are being trafficked into the UK for the purpose of forced labour in cannabis cultivation". The paper states that the children are made to work in 'cannabis factories' by organised criminal gangs and are "robbed of their freedom and subjected to extremely hazardous conditions. The gangs also use debt bondage and the threat of reprisals against the children and their families to prevent them from trying to escape" ([ECPAT, 'Safeguarding children trafficked to the UK to undertake forced labour in cannabis factories', 2010, page 1](#)).

ECPAT says that those children found by authorities are then "being prosecuted rather than provided with protection. Many children are not identified as potential victims of trafficking and are subsequently charged with drug or immigration offences". They add that "many of these children, once they have been bailed or released from custody, go missing from local authority care soon after and are at risk of being re-trafficked or exploited in other ways" (*ibid*, page 1).

5.5 US State Department: Assessment of UK Policy

The US State Department's annual report on anti-trafficking provides a country-by-country assessment of the anti-trafficking mechanisms in place. In 2010 the report introduced a new ranking system. Those ranked as Tier 1 are "Countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards" whereas Tier 3 are "Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so". The UK is ranked in Tier 1 because:

The government of the United Kingdom fully complies with the minimum standards for the elimination of trafficking. The government continued to take steps to establish a victim-centered response and instituted reforms to reflect the

importance of trafficking on its national agenda. Local experts and observers, however, continued to report inadequate and inconsistent protection efforts for trafficking victims in the UK, and the late 2009 closure of the government's specialist anti-trafficking police unit in London raised concerns over prospects for improved anti-trafficking efforts. Furthermore, some experts criticized the UK Border Agency's role as the lead anti-trafficking agency, arguing that its focus on immigration prevented a human rights approach to identifying, protecting and supporting victims of human trafficking. During the reporting period, however, the government stepped up its anti-trafficking training efforts to improve national and local authorities' response to trafficking victims in the United Kingdom.

The report makes a number of recommendations for the United Kingdom:

Take greater steps to ensure that victims are not penalized for unlawful acts committed as a direct result of being trafficked; ensure all trafficking victims are provided access to specialized services and safe accommodation; continue to improve protections for men who are victims of forced labor; improve protections for British children as well as unaccompanied minor asylum seekers who are victims of trafficking and take steps to reduce their vulnerability to trafficking; and continue to vigorously prosecute and convict all trafficking offenses, including forced labor and involuntary domestic servitude.

[\(US State Department, *Trafficking in Persons Report*, June 2010, pp 335–38\)](#)

6. The Coalition Government Approach

In May 2010, the Conservatives and Liberal Democrats formed a coalition government. Following the negotiations that preceded this, the two parties published a joint document outlining their programme for government. This said:

We will create a dedicated Border Police Force, as part of a refocused Serious Organised Crime Agency, to enhance national security, improve immigration controls and crack down on the trafficking of people, weapons and drugs. We will work with police forces to strengthen arrangements to deal with serious crime and other cross-boundary policing challenges, and extend collaboration between forces to deliver better value for money...

We will introduce new measures to minimise abuse of the immigration system, for example via student routes, and will tackle human trafficking as a priority.

[\(HM Government, *The Coalition: Our Programme For Government*, May 2010, page 21\)](#)

In June 2010, Damian Green, the Immigration Minister, confirmed in a press release that: "Combating human trafficking is a key priority for the new coalition government. It is a shocking brutal form of organised crime with men, women and children being abused in the sex industry, forced labour and domestic servitude". The press release was issued by the Home Office in response to the Anti-Trafficking Monitoring Group report. The press release added:

He [Mr Green] said that while tackling international organised groups who profit from these crimes is crucial, the government is also committed to identifying and protecting victims. More than 700 trafficking victims went through the national

referral mechanism in its first year, which Mr Green described as a “significant achievement”.

He added: “The government will need time to examine the detail of this report, but it is a further contribution to the debate on how the UK can improve its trafficking response. I will look very carefully at the individual criticisms of the system set up in 2009, and act where necessary”.

[\(Home Office Press Release, ‘Combating trafficking a key priority’, 16 June 2010\)](#)

6.1 Reaction to the European Commission’s Proposal for a Trafficking Directive (2010)

In October 2008, the European Commission issued a Working Document evaluating the implementation of anti-trafficking policy in the EU. The Commission found that the number of criminal proceedings and victims supported were “not high enough” across the EU. Following this a new directive was proposed by the Commission. Its main proposals are:

- **CRIMINAL LAW PROVISIONS**, including a common definition of the crime, aggravating circumstances and higher penalties, as well as non-punishment of the victims for unlawful activities such as the use of false documents in which they have been involved for being subjected to by traffickers.
- **PROSECUTION OF OFFENDERS**, including extraterritorial jurisdiction (the possibility to prosecute EU nationals for crimes committed in other countries), use of investigative tools typical for organised crime cases such as phone tapping and tracing proceeds of crime.
- **VICTIMS’ RIGHTS IN CRIMINAL PROCEEDINGS**, including specific treatment for particularly vulnerable victims aimed at preventing secondary victimisation (no visual contact with the defendant, no questioning on private life, no unnecessary repetition of the testimony, etc.), police protection of victims, legal counselling also aimed to enable victims to claim compensation; special protective measures are envisaged for children such as holding interviews in a friendly environment.
- **VICTIM SUPPORT**, including national mechanisms for early identification and assistance to victims, based on cooperation between law enforcement and civil society organisations, providing victims with shelters, medical and psychological assistance, information, interpretation services. A victim shall be treated as such as soon as there is an indication that she/he has been trafficked, and will be provided with assistance before, during and after criminal proceedings.
- **PREVENTION**, including measures aimed at discouraging the demand that fosters trafficking, i.e. employers hiring trafficked persons and clients buying sexual services from victims of trafficking, training for officials likely to come into contact with victims, and of potential victims to warn them about the risks of falling prey to traffickers.

- **MONITORING** providing for the establishment of National Rapporteurs or equivalent mechanisms, which should be independent bodies, in charge of monitoring the implementation of the measures foreseen by the Framework Decision. Such bodies should have further tasks including giving advice and addressing recommendations to governments.

[\(EUROPA Press Release, 'Proposal for a Directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA', 29 March 2010\)](#)

The Coalition Government announced that the UK will not opt-in to the new directive. A Home Office press release stated that “While the draft directive will help improve the way other EU states combat trafficking, it will make very little difference to the way the UK tackles the problem as there are no further operational co-operation measures which we will benefit from. Opting in now would also require us to make mandatory the provisions which are currently discretionary in UK law. These steps would reduce the scope for professional discretion and flexibility and might divert already limited resources” ([Home Office Press Release, 'Home Office defends position on human trafficking', 31 August 2010](#)).

A number of questions were asked about this decision during Home Office questions in the House of Commons on 6 September 2010. Replying to a question from Emma Reynolds (Labour), Theresa May, the Home Secretary, defended the Government’s stance when challenged on the issue:

In looking at European Union directives, I take a very simple approach: is signing up to a particular directive to the benefit of the United Kingdom? Happily, most of the provisions in the European directive on human trafficking are already being acted on by the United Kingdom, because we take that issue extremely seriously.

[\(HC Hansard, 6 September 2010, col 18\)](#)

Writing in the *Yorkshire Post*, the Archbishop of York described himself as “stunned” by the Government’s decision, saying that “what we need are tough cross-border solutions to international problems. We need to join with our European brothers and sisters and put an end to this evil trade” ([John Sentamu, 'We must have a united front to defeat the evil traffickers who trade in slavery and sex', Yorkshire Post, 6 September 2010](#)). Klara Skrivankova, of Anti-Slavery International, said: “Despite significant positive steps, the Government cannot become complacent and say that the UK is already doing enough. Without international cooperation the government will lose the battle with the traffickers. By choosing not to opt in to the directive the Government is failing in its efforts to combat this transnational crime” (['Charities say government fails trafficking victims', BBC News, 4 August 2010](#)).

7. International Approach to Tackling Human Trafficking

7.1 UNODC: The 3 ‘Ps’

The UNODC approach to addressing human trafficking is three pronged: prevention of trafficking in persons, protection of victims of human trafficking and prosecution of trafficking offenders. To prevent trafficking taking place, the UN works to address the problems inherent in vulnerable communities and conflict zones that give rise to trafficking. In protecting victims the UN provides tools to help countries enhance the

identification, referral and reintegration of individuals affected by trafficking. In improving countries' prosecution capabilities, UNODC also works "on strengthening national criminal justice systems. UNODC's goal is to see a greater number of convictions achieved globally. This means not only that human trafficking must be a criminal offence in the country where an act of trafficking is detected, but also that the law must be enforced" ([UNODC website, 'Prosecuting human traffickers'](#)).

UNODC has stressed the importance of improved transnational information sharing. They say: "Today, the Member States lack the ability to say with any precision how many victims of human trafficking there are, where they come from or where they are going. The various estimates that have been made have been highly controversial. Since the magnitude of the problem or where it is most acute cannot be stated, changes cannot be tracked over time, and interventions cannot be evaluated for their impact. Tackling transnational trafficking in human beings requires an ongoing exchange of data" ([UNODC, *Global Report on Trafficking in Persons*, February 2009, page 69](#)).

7.2 US State Department: The 3 'Ds'

In its *Trafficking In Persons Report*, the US State Department warns that the paradigm of prevention, protection and prosecution now has "a competing, more unfortunate, paradigm [that] seems to persist in impeding greater anti-trafficking progress: the "3D" phenomenon of detention, deportation and disempowerment". The report explains that:

The use of this approach in detaining and deporting trafficking victims is most often the outgrowth of immigration policies or archaic laws that have yet to fully appreciate the phenomenon of modern slavery. However, some of the manifestations of this response are new, appearing only in the last few years and affecting many more women than men.

In such a response, governments may act out of self interest in ridding themselves of potential burdens. Or they may act in what they claim is the best interest of foreign victims. This usually includes detaining the victims for a short period of time and then deporting them to their country of origin without offering them credible opportunities to seek legal redress (including civil restitution), adequate psychological repair, longer term residency and work, or relocation to a third country. Attempts to hold identified trafficking victims in detention-based facilities governments describe as "shelters"—no matter how comfortable and safe they may be—disempower victims at a critical time when they need a restored sense of individual freedom. Detention models undercut any rapport service providers or investigators might build with victims. Research and law enforcement practice indicates that initial trauma lasts for months and that victims can only give a partial account of their experiences in the early stages of an investigation; a response based on detention and repatriation—even if initial statements have been reduced to video or affidavit—likely prevent law enforcement from arriving at critical facts.

Sending victims back to their countries of origin without informing them of a full range of options not only exposes them to possible trauma associated with being identified as a trafficking victim, but it also risks returning them to the same condition and exposing them to the same or even more enhanced pressures that

contributed to their initial trafficking experience, thus raising the prospects for their re-trafficking. Furthermore, when a country jails and repatriates victims without screening or protection, NGOs are deterred from bringing their clients to the government's attention.

[\(US State Department, *Trafficking In Persons Report*, 2010\)](#)

