

Justice Committee

Criminal Justice (Scotland) Bill

Written Submission from Community Safety Glasgow (TARA Service)

1. Introduction

1.1 Community Safety Glasgow (CSG) (formerly Glasgow Community and Safety Services) welcomes the opportunity to comment on the general principles of the Criminal Justice (Scotland) Bill.

1.2 CSG's Trafficking Service, TARA, has supported women who have been trafficked for the purposes of commercial sexual exploitation since 2005. Therefore, the focus of this submission will be on the principles of the bill that relate to the prosecution of this dreadful crime.

2. Corroboration (s57)

2.1 We are supportive of the removal of the requirement for corroboration and view this as a further step to improve access to justice for victims of human trafficking, especially those exploited in domestic servitude and/or those exploited in off street prostitution. The hidden nature of trafficking often means exploitation and the subsequent offences are often committed in private residences and/or removed from the view of the authorities and general public.

2.2 Frequently there are no witnesses other than the victim or the accused. Victims of trafficking simply do not hold sufficient information to assist with the identification of potential witnesses such as those who have paid for sex with them. (CSG would argue that such purchasers, especially those who have bought sexual services from a trafficked woman (or man) are in effect perpetrators of violence against women.) Lack of corroboration in such cases should not be a barrier to justice for the victims of this serious crime.

3. Aggravation as to people trafficking (s83-85)

3.1 We are pleased to see the introduction of an **aggravation as to people trafficking**. We believe this will be a useful tool to further combat Human Trafficking in Scotland and promote Scotland as a hostile environment for perpetrators of this serious breach of human rights and crimes against people.

3.2 The introduction of this offence is clearly aimed at tackling Scotland's low rate of prosecutions for the crime of Human Trafficking) and endeavours to assist with the evidential difficulties inherent in prosecuting Human Trafficking. These principles are to be warmly welcomed. However, CSG's TARA Service is very concerned that there is significant risk that existing legislation, which carries up to 14 years imprisonment, will be ignored in favour of the simpler aggravation offence.

3.3 Despite this welcome addition, in particular sections 83 and 84, CSG's TARA Service remains concerned that even with the introduction of an aggravated offence, legislation within Scotland remains piecemeal and is contained within several acts of parliament and associated amendments.

3.4 With regards to s 85 (1) there is, currently, no legal definition of Human Trafficking within **Scots** Law. All government agencies and support services work to the definition contained within the Council of Europe Convention on Action Against Trafficking in Human Beings. Whilst in agreement with this definition and being cognisant that Scotland is subject to the Convention's legal obligations, TARA considers the lack of a **Scots** law definition problematic. In particular, s85 (1) which refers to s22 of the Criminal Justice (Scot) Act 2003 and s4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 for the meaning of 'a people trafficking offence'. In effect this means two definitions of the same crime.

3.5 CSG's TARA Service also believes that s22 of the Criminal Justice (Scot) Act 2003 does not reflect all forms of commercial sexual exploitation for which women are (disproportionately) trafficked. The sex industry, and the demand for women to fulfil its demands, is especially profitable for traffickers and organised crime groups. 'Prostitution' and 'obscene material' is insufficient and the exclusion of a broader understanding of commercial sexual exploitation has the potential to cause difficulties utilising the proposed aggravated offence.

4. Supplementary Considerations

4.1 Although outwith the scope of this evidence gathering exercise the committee may wish to consider any opportunities within this bill to include offences addressing the demand for trafficked persons and their labour which is generated within Scotland. In particular, addressing the demand for women trafficked to be exploited in the sex industry, is one of the key prevention tools that CSG's TARA Service recommends.

4.2 CSG's TARA Service urges the committee to consider including the provision of Judicial Direction in the bill, which the Scottish Government has previously committed to introduce in sexual offence cases (by providing factual information on the responses of victims). TARA believes it to be necessary to improve juries' knowledge of human trafficking and the impact on victims of this crime given the complex issues surrounding Human Trafficking, the means used by traffickers to coerce and control, trauma and how they combine to impact on survivors of this crime.

4.3 The Scottish Government considers the current legislation to be 'broadly compliant' with its legal obligations following the ratification of the EU 2011/36/EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting Victims. A number of provisions were included in the Criminal Justice and Licensing (Scot) Act 2010 making amendments to the Criminal Justice (Scot) Act 2003 and s4 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004. However, a recent article, Human Trafficking in Scotland: The Legislative Response' by Paul Arnell and Tracy Ogilvie from Robert Gordon University, published in the August edition of the SCOLAG Legal Journal notes that 'in England and Wales the law has

been explicitly amended to affect compliance with the Directive, in the form of two new offences in:

- i. s 59A of the Sexual Offences Act 2003
- ii. section 4 (1A) of the Asylum and Immigration (Treatment of Claimants etc) Act 2004
- iii. Trafficking People for Exploitation Regulations
- iv. Electronic Commerce Directive (Trafficking People for Exploitation) Regulations.

It appears a case could be made that Scots law in this regard is lacking – both in comparison to England and Wales and in regard to the Directive itself.

4.4 The committee may also find it interesting to note that the Home Secretary, Teresa May, recently announced the intention of the UK Government to introduce a Modern Slavery Bill and the appointment of a Modern Slavery Commissioner to oversee changes. TARA are extremely supportive of the introduction of such a bill and Commissioner. These recent developments may have future implications for the Scottish Government and Parliament.