

## Justice Committee

### Human Trafficking and Exploitation (Scotland) Bill

#### Written submission from the Scottish Trades Union Congress

1) The STUC is Scotland's trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland; reflecting the aspirations of trade unionists as workers and citizens.

2) The STUC represents over 627,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy and our representative structures are constructed to take account of the specific views of women members, young members, Black/minority ethnic members, LGBT members, and members with a disability, as well as, retired and unemployed workers.

#### General Points

3) In general the STUC welcomes the Human Trafficking and Exploitation (Scotland) Bill. We believe that legislation is necessary and that a Bill which clarifies existing laws and strengthens provision where appropriate is useful.

4) The STUC supports the main proposals in the Bill. In particular we welcome the focus on support for victims. We do however, have some concerns about the drafting of the Bill and share many of the views put forward by TARA and the Anti-Trafficking Monitoring Group. In particular we are concerned that the definition of trafficking as contained in Clause 1 differs from the internationally accepted definition contained in Article 4 of the Council of Europe Trafficking Convention.

5) Article 4 states:

*“‘Trafficking in human beings’ shall mean 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.”*

6) The focus on the word ‘travel’ in Article 1 seems out of step with this, and the ‘by means of’ element of the Article 4 definition is absent. It seems inadvisable to divert from the internally accepted wording, even if there is an attempt to cover the concepts elsewhere in the Bill.

7) A key purpose of this Bill is to establish a clear principle of non-prosecution of trafficking victims. The STUC welcomes the commitment from the Scottish Government to clarify the law in this area, however It is currently unclear the status of the Lord Advocate's guidelines, or how, when and for what reason such guidelines might be reviewed or revisited. It is necessary that this section be looked at again to ensure that a clear non-prosecution principle is included in line with Article 8 in the

EU Trafficking Directive. The wording in Jenny Marra MSP's original Private Members Bill was useful in this regard.

8) The STUC has no objection to the creation of a specific aggravation for trafficking offences committed by public officials. It would be useful, however, for clear guidance to be produced by employers for staff working in areas where they might come into contact with victims of trafficking and which clearly sets out their duties with regard to this legislation and to preventing trafficking.

9) The STUC notes that this Bill does not establish an anti-slavery commissioner; rather the anti-slavery commissioner created at a Westminster level will also cover Scotland. We are concerned that this situation is inadequate and will not give a locus to trafficking work in Scotland. The STUC has concerns that the UK anti-slavery commissioner is not sufficiently independent of Government and that their remit focuses too heavily on the actions of law enforcement. In general an anti-slavery commissioner has a key role to play in bringing together practice from a range of organisations and should provide an overarching leadership for detection, awareness raising, support for victims and prevention work.

10) In general the STUC believes that the trafficking Bill as drafted lacks a focus on preventing trafficking from occurring. This is evident in a number of ways, including the lack of a specific clause to criminalise the purchase of sex, the lack of a Scottish specific anti-slavery commissioner and the approach taken to the trafficking and exploitation strategy. The STUC believes that the strategy currently focuses too heavily on raising awareness of the provisions of the Bill and lacks a long term vision for how the work on trafficking will progress. The STUC believes that specific mention of consultation with stakeholders including employers, trade unions and relevant civil society organisations when preparing or refreshing the strategy would also be useful in this section.

## **Prevention**

11) The STUC is clear that more effective prosecution of traffickers or those suspected to be involved with trafficking, while useful, is not enough to eradicate trafficking. The Government must also be prepared to consider how market forces affect trafficking rates and how regulation and approaches that specifically target how markets function have a role to play in tackling trafficking.

## **Preventing Sexual Exploitation**

12) Commercial sexual exploitation is a growing problem in Scotland and the UK. The trafficking of women and girls into prostitution in England and Wales is worth at least £130 million annually, while it is estimated that 80,000 people in the UK, mainly women and girls, are involved in prostitution. The psychological and physical harm experienced through commercial sexual exploitation can be severe.

13) Yet demand for the trade has been increasing: between 1990 and 2000 the number of men paying for sex acts in the UK almost doubled. Tackling this demand is crucial to reducing and preventing prostitution and trafficking. A crucial legislative strategy for achieving this is to decriminalise the sale of sex, criminalise the

purchase of sex and provide support and exiting services for those exploited through prostitution. This approach – often referred to as the Nordic Model - has been shown to be effective in reducing demand for sexual exploitation, changing public attitudes and making the country in question a more hostile destination for traffickers.

14) The Trafficking and Exploitation Act in Northern Ireland includes a clause to criminalise the purchase of sex, thus providing an example of this approach being applied within a UK setting. Given that there is already significant evidence of how this approach works in practice, there is little to stop a clause that criminalises the purchase of sex being included in this Bill.

15) In May 2012, Unite the Union held a conference looking at human trafficking specifically in relation to the sex industry to raise awareness and gather support for Jenny Marra MSP's Human Trafficking Bill. Speaking at the conference one survivor from Survivors Network said:

*“ Without punters there would be no prostitutes. Without prostitutes there would be no trafficking. Women's bodies are sold and abused only because there is someone who is willing to pay to abuse them. Take away the demand and you remove the problem.”*

16) The STUC, therefore, calls for the Trafficking Bill to contain a provision for the criminalisation of the purchase of sex.

### **Preventing Forced Labour**

17) The STUC sees trafficking on a spectrum of wider labour abuses. To effectively tackle trafficking, it is important to focus on tackling widespread abuse in the labour market. Available evidence suggests the number of people in the UK experiencing forced labour may run into thousands. Many are entitled to work here, being EU migrants and UK citizens.

18) Likely elements associated with a risk of forced labour include low-skill manual and low-paid work; temporary agency work; specific industrial sectors; and certain non-UK migrant workers. The definition and scope of forced labour is poorly understood, including differences between human trafficking, slavery and exploitation. While a better understanding of these issues would be useful it is also important to consider actions that make the labour market less hospitable to abuse.

19) In this way it is important to focus on sectors where there are high levels of vulnerable workers. The sectors selected by the UK Government in this regard are Agriculture, Labouring, Maritime, Food Processing and Hotels and Leisure sectors. The STUC agrees that these sectors seem reasonable and many of our affiliated unions have raised concerns around the systematic exploitation of workers in these and other sectors.

20) It is important to consider how to improve conditions within these sectors. The STUC believes that an approach which couples regulation and sectoral bargaining could make a real difference to the level of severe abuse that exists, while also improving the general wellbeing of workers in these sectors.

21) It must be recognised that forced labour provides disreputable companies with an unfair trading advantage. This fact, coupled with moral reasons, means that employers associated with the Ethical Trading Initiative were keen to include a supply chains element within the Modern Slavery Bill. It is also why mandatory approaches are more favourable than voluntary codes as they make requirements that apply to all employers and encourage transparency within the supply chain. The supply chains clause in the Modern Slavery Bill will also apply to Scotland and provides a legislative basis to begin thinking about how supply chains function and how transparency and ethical standards can be promoted.

22) A key approach to tackling trafficking is to ensure that large companies and the public sector are properly taking responsibility for what is happening within their own supply chains. This should form a key element of any anti-trafficking strategy and procurement should also be used to improve practice and to favour employers who sign up to sectoral agreements on pay and working conditions. The STUC recognises that sectoral bargaining cannot be mandated by the Scottish Government to the private sector but we also believe that a voluntary scheme coupled with clear procurement practice and the legislative footing of the Modern Slavery Bill could give a strong start to an approach of this kind.

23) The Gangmasters Licensing Authority (GLA) also has an important role to play in tackling trafficking, given its inspection regime in key sectors where workers are vulnerable and where trafficking has been uncovered in the past. The STUC is concerned that this body is severely underfunded and, therefore, struggles to effectively regulate the sectors where it operates. However, we also feel that the general model of inspection is a good one, if the organisation was properly resourced. We, therefore, also believe that it would be beneficial to extend the reach of the GLA, or create a similar body with inspection powers, to regulate the care, cleaning, hospitality, security and construction sectors which are often identified as employing high numbers of vulnerable workers and where trafficking could also be occurring.

## **Conclusion**

24) The STUC welcomes the introduction of a draft Bill on trafficking and is keen to work on this Bill as it progresses. We also look forward to supporting the Government in developing an anti-trafficking strategy for Scotland.

STUC  
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