

Justice Committee

Human Trafficking and Exploitation (Scotland) Bill

Written submission from NHS Greater Glasgow and Clyde Psychological Trauma Services

A. Part 1: Offences

1. The bill guidance notes specify that “section 1 provides for a single offence of human trafficking for the purpose of all forms of exploitation of adults and children” (p.4). However, children are not mentioned in the bill per se at any point. Mention is made to “youth” with no accompanying definition. We consider that it is important that the bill does provide for prosecution of trafficking offences against adults and children.
2. *Section 1 (1)*: We consider that the focus within the bill on the arrangement of travel over-simplifies the process of human trafficking, and that it may be difficult to prosecute individuals in the trafficking chain who have had no direct involvement in arranging the travel of victims, but who may have been involved in other aspects of trafficking (e.g. grooming/recruiting or coercing the victim).
3. As trafficking is often a cross-borders operation, orchestrated by a chain of individuals. Might “intention to exploit” therefore be difficult to prove in this context?
4. *Section 3 (8). Securing services and benefits*: Specifying specific attributes which make a person vulnerable i.e. “the person is mentally or physically ill or disabled, is young, or has a family relationship with a particular person” does not sufficiently capture the range of factors which make a person vulnerable to trafficking. Vulnerability is often multi-faceted. A person can be vulnerable by virtue of a life trajectory characterised by multiple layers of inequality and disadvantage linked to gender and culture, abuse and trauma, and the absence of access to protective factors (e.g. parents, schooling), as well as to more definitive mental and physical disability. We have concern that individuals who do not present with diagnosable mental or physical health problems will not be considered to have been in a position of vulnerability prior to trafficking. It may also be difficult to prove that mental disability pre-dated trafficking, as it is often a consequence of trafficking. Might 3 (8) specify that the person has been “chosen” due to their being “in a position of vulnerability”, however defined?
5. *Section 4 (3)*. Re: “In determining whether a person is being held in slavery or servitude or required to perform forced or compulsory labour, regard is to be had in particular to any personal circumstances of the person”. We suggest here that, in defining vulnerability, that the bill should specify that regard is to be had to any “vulnerability” of the person, however defined.

B. Part 2. Protection of Victims

1. *Section 7 (2). Lord advocates guidelines on prosecution of victims of offences.* We would argue that there is a need for a clause in the bill saying that the non-prosecution of victims should be the default position. Prosecuting victims of trafficking for the crimes they are made to commit would seem to be the antithesis of human rights informed legislation. We would have concerns that relying on the legal system to find whether the victims is guilty or not would mean putting a victim through significant further stress, which would, in all likelihood compound any mental health difficulties the victim already has.
2. *Support and assistance for adult victims of human trafficking 8 (1).* The bill as it stands only places a statutory obligation to provide support for those who are trafficked for exploitation. We would like to see a Human Trafficking and Exploitation Bill providing to secure the provision of support to victims of trafficking *and all other forms of exploitation* on a needs-led basis.
3. *Section 8(3) a, b and c.* The terminology in this section suggests that victims will need to go through the national referral mechanism in order to qualify for support. Could there be a “presumption of need” for support and healthcare etc in the period before the victim has a reasonable grounds decision?
4. *Section 8 (4).* The bill does not provide for support of the dependents of victims of trafficking. In some cases, children of victims of trafficking may have been directly involved in exploitative practices (e.g. sexual exploitation) and in other cases they may have been witness to exploitation and abuse of a parent (eg by being in the room whilst mother is forced to prostitute). In other cases, children may not witness abuse, but may be held under the same conditions of confinement and entrapment as their mother. The NRM would not count these children in its figures, but they clearly are victims, and can have significant support needs of their own. We would like to see the bill make provision to provide support for the dependents of victims of trafficking.
5. *Section 8 (4) (e)* Mention is made to “counselling” being one of the forms of support and assistance to be provided to victims of trafficking. The mental health consequences of trafficking are complex and include PTSD, depression, anxiety disorders and complex PTSD. Best practice treatment guidelines advise that victims who have complex mental health difficulties linked to cumulative trauma, including trafficking, should receive psychological therapy tailored to specific presenting mental health difficulties (International Society for Traumatic Stress Studies 2012). Counselling is not a recommended psychological treatment for the mental health effects of cumulative trauma. Neither is the need for psychological provision adequately captured under “medical assessment and treatment”. To ensure there is clarity around entitlement, access and psychological service provision for victims of trafficking, we would propose instead that the term “counselling” be replaced with “psychological assessment and treatment”.

C. Suggested missing elements from the bill

1. *Definition of a “child” and clarification around rights to support for age-disputed victims:* We consider it important to clarify whether the bill relates to adults or adults and children, and to provide a definition of a child. We also consider it important that the bill provides guidance around support for victims of trafficking whose age is disputed. We would like to see a presumption that a person who says they are a child is treated by statutory systems as a child until evidence to indicate otherwise becomes available.

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References

- The ISTSS Expert Consensus Treatment Guidelines for Complex PTSD in adults (2012). International Society for Traumatic Stress Studies. Available at: http://www.istss.org/AM/Template.cfm?Section=ISTSS_Complex_PTSD_Treatment_Guidelines&Template=/CM/ContentDisplay.cfm&ContentID=5185