



The Struggle Between Migration Control and Victim Protection:
The UK Approach to Human Trafficking

Women's Commission for Refugee Women and Children

June 2005



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Printed in the United States of America

ISBN: 1-58030-C38-3

MISSION STATEMENT

The Women's Commission for Refugee Women and Children works to improve the lives and defend the rights of refugee and internally displaced women, children and adolescents. We advocate for their inclusion and participation in programs of humanitarian assistance and protection. We provide technical expertise and policy advice to donors and organizations that work with refugees and the displaced. We make recommendations to policy makers based on rigorous research and information gathered on fact-finding missions. We join with refugee women, children and adolescents to ensure that their voices are heard from the community level to the highest councils of government and international organizations. We do this in the conviction that their empowerment is the surest route to the greater well-being of all forcibly displaced people. Founded in 1989, the Women's Commission is an independent affiliate of the International Rescue Committee.

ACKNOWLEDGMENTS

Wendy Young, Director of External Relations, Women's Commission for Refugee Women and Children, conducted research in the United Kingdom and authored this report. It was edited by Diana Quick, Director of Communications, Women's Commission for Refugee Women and Children.

The Women's Commission would like to thank the Reebok Foundation, J.M. Kaplan, JPMorgan Chase and two anonymous donors, without the support of which this report would not be possible. We would also like to thank Rachel Watson, consultant to the Women's Commission, who did an excellent job laying the groundwork for the mission. Finally, we wish to acknowledge the many experts in the NGO community, UN and government who took the time to share their perspectives and knowledge with us in the course of this research.

Cover photo: IRC-ATAC

Table of Contents

EXECUTIVE SUMMARY	1
Key Recommendations	4
BACKGROUND	5
The Women’s Commission Assessment	5
International, Regional and Domestic Laws Pertaining to the Protection of Refugees and Trafficked Persons in the UK	5
The Demographics of Trafficking in the UK	15
EFFORTS IN THE UK TO COMBAT TRAFFICKING	18
Introduction	18
Victim Protection	18
Legal Protection	19
Physical Protection	25
Law Enforcement Efforts to Combat Trafficking	30
Public Awareness	35
CONCLUSIONS AND RECOMMENDATIONS	37
Victim Protection	37
Law Enforcement	39
Public Awareness and Prevention Efforts	40

EXECUTIVE SUMMARY

“Trafficking in persons shall mean the recruitment, transportation, transfer, harboring 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 purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”¹

Five years ago, the British public was horrified to learn of the brutal death of an eight-year-old girl from the Ivory Coast, Victoria Climbié, who had been trafficked to the United Kingdom (UK). During her nine months in the UK she had been sexually abused and tortured. She had endured daily beatings with various instruments, including a bicycle chain; burned with cigarettes and hot water; forced to sleep in the bathtub in an unheated bathroom, her hands bound and her body tied into a garbage bag in which she was forced to urinate and defecate; and made to eat her food from a dish on the floor like a dog. After her death, an autopsy revealed that she had died from malnourishment, hypothermia and organ failure, and had suffered almost 130 non-accidental injuries to her body.²

Two years later, British police fished from the River Thames the torso of a boy who they believed to be somewhere between the ages of four and six and of West African origin. His exact identity unknown, he was dubbed “Adam.” His arms, legs and head had been chopped off. Authorities suspected that he had been trafficked to the UK to be used in a fetish ritual, his blood drained, his body parts kept as trophies and the rest of his body later disposed of by his murderers. Twenty-one people who were suspected of having trafficked “Adam” were arrested on immigration charges.

These incidents served as a wake-up call to the British government and the wider public that human trafficking is a burgeoning problem both worldwide and in the UK itself. In May 2005, police who were following up on the death of “Adam” revealed that their investigation had uncovered the disappearances of 300 boys between the ages of four and seven, all but one of whom were African.³ The fate of these children is unclear but raises serious questions about potential trafficking to the UK. While the full extent of the problem is not fully known or understood, it is estimated that trafficking victims number at least in the hundreds and much more likely in the thousands each year, and that the numbers are climbing.

Women and children are trafficked to the UK from many countries in Asia, West Africa and Eastern Europe. While poverty is frequently cited as the primary root cause of trafficking, and clearly does act as a significant factor, it is striking that many of the countries from which trafficked women and children originate are either experiencing conflict, are recovering from

¹ Trafficking Protocol, art. 3(a).

² Victoria’s parents sent her to the UK with her aunt in good faith, believing she would receive a better education and life opportunities. Allegedly, her aunt economically exploited her by using her as a means to claim social benefits. Susan Ellery, West Sussex County Council (e-mail, March 4, 2005).

³ Sarah Left, “Hundreds of Children Go Missing in London,” *The Guardian* (May 3, 2005).

conflict or are known to have dubious human rights records. Many are characterized by inadequate recognition of the rights of women and children, and some are known for violations of such rights in a manner that goes beyond discrimination and rises to the level of persecution.

Once victims are in the UK, traffickers may force them into prostitution or other sexually exploitative conditions, domestic slavery or abusive labor. Traffickers have sold children for fetish ceremonies during which the children may be tortured, dismembered and murdered. Children have also become pawns used by their captors to fraudulently access social benefits; they often experience other abuses during their captivity.

Combating trafficking has increasingly become a national priority for the UK. This effort has three prongs: the criminalization of trafficking and the prosecution of traffickers; the protection of victims; and raising public awareness both domestically and abroad to prevent it from happening in the first place.

Laws have been developed to criminalize human trafficking in the UK,⁴ and there have been some cases of successful prosecutions of traffickers, with their sentences ranging from a few months up to 23 years. In the past, the lack of recognition of trafficking as a crime meant that traffickers had to be prosecuted for other offenses, such as pimping or sexual exploitation. Since 2002, however, laws that explicitly forbid trafficking have been enacted; as of 2004, all forms of trafficking are now outlawed and carry penalties of up to 14 years' imprisonment.⁵

While the UK government has been proactive in the recognition of trafficking as a serious crime, it has been less forthcoming with regard to the protection of trafficked persons. Unlike the United States, the Netherlands, Italy and certain other destination countries, the UK has not adopted legal mechanisms to ensure the protection of trafficking victims, either on a short- or long-term basis. There is no provision for a reflection period, during which the victim can recover from her trafficking experience and make decisions about the future, nor is there any specific relief from deportation tailored to trafficking victims that would allow them to remain temporarily or permanently in the UK if return is not viable. Instead, a trafficked person must apply for asylum, which if granted allows the person to remain in the UK permanently, or humanitarian protection or discretionary leave, which are provided for defined periods.

While the UK government has identified trafficking as a serious concern, at the same time it has embraced increasingly restrictive asylum laws that dramatically affect the ability of individuals seeking refuge from persecution or other harm to access the protection they need. These barriers are likely to hamper the ability of trafficked persons to access protection either if they were trafficked because they had fled a situation of armed conflict or human rights problems or because they would be at risk of re-trafficking if returned to their homeland.

⁴ See, for example, the Sexual Offences Act 2003 (section 57, 58 and 59), the Asylum and Immigration Act 2004 (sections 2 and 4), Proceeds of Crime Act 2002, Schedule 2 and Part 7. (E-mail from Louise Hinchliffe, Information Officer, The POPPY Project, May 5, 2005.)

⁵ Sentencing is being closely watched by Harriet Harman, the Solicitor General, and she has referred cases to the court of appeal. She is quoted as saying she has no problem referring these cases back to the court of appeal if she feels sentencing is too lenient. (E-mail from Louise Hinchliffe, Information Officer, The POPPY Project, May 5, 2005.)

Various efforts have been made to offer physical protection to trafficked persons, including the testing of “safe houses.” However, such initiatives have received inconsistent support and are designed to serve only certain categories of trafficked persons, such as children under age 18 or women trafficked for prostitution.

A safe house program funded by a local authority that was dedicated to providing accommodation and services to trafficked children under age 18 shut down after three years. It had responded to a dramatic upsurge in the arrival of unaccompanied child asylum seekers at Gatwick Airport in West Sussex in the late 1990s, some of whom disappeared after being placed with local child welfare agencies. When the number of arrivals at Gatwick slowed to a trickle due to changes in flight paths from Africa, the program was discontinued. Currently, there is no program in the UK designed to address the specific protection needs of trafficked children, and there are serious doubts that mainstream child welfare services in the UK can fill the void.

A second “safe house” project was launched to serve trafficked women over age 18. Funded by the Home Office, this program is still under way, but has serious limits on its scope. These restrictions include requiring that the woman have been trafficked for prostitution, that the prostitution have taken place in the UK, and that she escape the prostitution within 30 days of having been referred to the program. The program therefore cannot serve women who have escaped other forms of trafficking or women who manage to escape from their traffickers either before or during their arrival in the UK.

The UK has joined with other governments in addressing trafficking in source countries. Such cooperation has focused on raising awareness among communities at risk of trafficking about the dangers that trafficking poses; supporting efforts to address the root causes of trafficking, for example, through the promotion of girls’ education; and coordinating with law enforcement agencies to facilitate the prevention, deterrence and prosecution of those involved in trafficking. In November 2004, for example, the UK government and the government of Nigeria signed a memorandum of understanding on cooperation to prevent, suppress and punish trafficking in persons.

The nongovernmental organization (NGO) community in the UK is actively addressing trafficking. Both agencies that focus exclusively on trafficking and those that specialize in asylum and migration have dedicated significant time, resources and energy to understanding the problem, assisting victims and advocating for systemic reform with government both at the local and national levels to ensure an effective, holistic approach to the issue that puts the rights of victims at its center.

Fundamentally, trafficking will not end, and likely will continue to increase, unless effective strategies are developed that prevent communities at risk from becoming vulnerable, that protect and assist trafficking victims so that they are safe from retaliation from their traffickers and are not at risk of re-trafficking or other abuses, and that bring the full force of the law against traffickers to send a strong message that those who engage in this crime will be fully prosecuted.

Trafficking cannot be addressed through the lens of migration control. Interception efforts will only drive traffickers elsewhere and will do little to protect their victims. It is a human rights

problem that deserves the full condemnation of and concerted and integrated response from the international community.

KEY RECOMMENDATIONS

This report offers the following key recommendations:

- Put the rights and the protection needs of trafficked persons at the center of any effort to combat trafficking.
- Ensure that trafficked persons have full information about, and access to, the asylum system, including consideration of whether they are at risk of re-trafficking.
- Develop a new protection mechanism for trafficked persons, including a three- to six-month reflection period and temporary or permanent residence for trafficked persons who cannot be returned to their homelands safely. Such mechanisms should not be contingent on cooperation with law enforcement authorities.
- Support through national funding the creation of safe house programs that can assist trafficked persons with accommodation, food, counseling services, health care and protection from traffickers. Such services should not be contingent on cooperation with law enforcement authorities.
- Ensure effective information sharing and integrated strategies among law enforcement, immigration and social services agencies to combat trafficking. Such efforts must be local, national, regional and international in scope to ensure their effectiveness.

BACKGROUND

THE WOMEN'S COMMISSION ASSESSMENT

The Women's Commission for Refugee Women and Children (Women's Commission) sent a fact-finding mission to the United Kingdom from September 20-27, 2004 to evaluate the approach the UK has taken to address the problem of human trafficking. The assessment focused on both law enforcement efforts to combat trafficking and legal and social measures in place to protect trafficked women and children who arrive or transit through the UK. The mission conducted interviews with NGOs, United Nations (UN) agencies and government officials.

This assessment is part of a global study by the Women's Commission to explore the nexus between refugee protection and trafficking. To be completed by the end of 2005, the assessment will offer concrete recommendations to policy-makers on how to prevent and respond to trafficking in refugee populations, taking into account the needs and rights of trafficked persons who have fled persecution or armed conflict in their homelands.

INTERNATIONAL, REGIONAL AND DOMESTIC LAWS PERTAINING TO THE PROTECTION OF REFUGEES AND TRAFFICKED PERSONS IN THE UK

International Refugee Law

After World War II, the international community joined together to establish international standards for the protection of refugees. This effort resulted in a treaty known as the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (the Refugee Convention).⁶

The Refugee Convention imposes on countries the obligation to protect any individual found to have a well-founded fear of persecution on account of race, religion, nationality, political opinion or membership in a particular social group.⁷ It also prohibits the expulsion or return of refugees to a country where their lives or freedom would be threatened on the basis of these five criteria. This is known as the principle of *non-refoulement*.⁸

The Refugee Convention has been widely ratified, with 145 states party to either or both the Convention and the Protocol as of February 1, 2004, including the UK.⁹ The office of the UN High Commissioner for Refugees (UNHCR), as well as experts in the refugee field, consider the principle of *non-refoulement* to be customary international law, and thus binding on all countries, even if they are not a party to the treaty.¹⁰

⁶ United Nations Convention Relating to the Status of Refugees, 189 UN Treaty Series 137 (opened for signature July 28, 1951); United Nations Protocol Relating to the Status of Refugees, 606 UN Treaty Series 267 (opened for signature January 31, 1967) (hereinafter Refugee Convention).

⁷ Refugee Convention, art. 1.

⁸ Refugee Convention, art. 33.

⁹ www.unhcr.ch

¹⁰ See UNHCR, Agenda for Protection, Document a/AC.96/965/add.1 (endorsed by UNHCR Executive Committee, October 2002) (noting that the applicability of the principle of *non-refoulement* is embedded in international law);

Refugee protection is generally interpreted in the context of human rights law. As human rights standards have evolved over the years, the refugee definition has often been interpreted to cover violations of such rights. This has been true, for example, in cases involving gender- or age-related persecution.¹¹

A similar trend has occurred in the consideration of trafficking as a human rights violation. Some countries have granted asylum to trafficked persons, an important acknowledgment of this growing human rights violation.¹² UNHCR has also taken the position that trafficking may constitute a form of persecution that merits refugee protection if the country of origin is unable or unwilling to offer protection against such harm.¹³

International Anti-trafficking Law

The international community has addressed trafficking in various international instruments. This includes a particular focus on the impact of trafficking on women and children, who constitute the vast majority of trafficked persons.

The Convention on the Rights of the Child requires states to take steps to prevent the abduction, sale or trafficking of children for any purpose.¹⁴ It also calls upon states to protect children from all forms of sexual exploitation and abuse.¹⁵

The Convention on the Elimination of All Forms of Discrimination Against Women requires states to institute measures to suppress all forms of trafficking in women. It also calls upon them to prevent exploitative prostitution.¹⁶

In November 2000, the UN General Assembly adopted the Protocol to Suppress and Punish Trafficking in Persons, Especially Women and Children to the Convention Against Transnational

see also Conclusion No. 25, Executive Committee, UNHCR (1982) (noting that the principle of *non-refoulement* is progressively acquiring the character of a peremptory rule of international law); Summary Conclusions, Global Consultations Expert Roundtable, UNHCR and Lauterpacht Research Centre for International Law (July 2001) (concluding that *non-refoulement* is a principle of customary international law and applies to refugees irrespective of their formal recognition), found in Erika Feller, Volker Turk and Frances Nicholson, *Refugee Protection in International Law* (2003).

¹¹ Alice Edwards, “Age and Gender Dimensions in International Refugee Law,” found in Erika Feller, Volker Turk and Frances Nicholson, *Refugee Protection in International Law* (2003).

¹² See, e.g., *In the Matter of J-M-*, Executive Office for Immigration Review (1996) (granting Chinese trafficked person asylum); Immigration and Refugee Board of Canada, Case V5-02904 (1997) (noting that international refugee protection would be a hollow concept if it did not offer protection to Ukrainian trafficked person).

¹³ UNHCR, Guidelines on International Protection: Gender-Related Persecution (2002).

¹⁴ Article 34, Convention on the Rights of the Child, opened for signature November 20, 1989, entered into force September 2, 1990. It should be noted, however, that while the UK has ratified the CRC, it also entered a reservation allowing it to pass immigration laws without reference to its obligations under the CRC. Refugee Children’s Consortium, “The Children Bill” (September 13, 2004).

¹⁵ Article 35, Convention on the Rights of the Child, entered into force September 2, 1990.

¹⁶ Article 6, Convention on the Elimination of All Forms of Discrimination Against Women, entered into force September 3, 1981.

Crime (the Trafficking Protocol).¹⁷ The treaty entered into force on December 25, 2003. As delineated in Article 2, the purpose of the Trafficking Protocol is to prevent and combat trafficking in persons, with special attention to women and children; to protect and assist victims of trafficking, with full respect for their human rights; and to promote cooperation among countries that have ratified the protocol in order to achieve those objectives.

At the time this report went to print, 117 countries had signed the Trafficking Protocol, and 76 had fully ratified it. The UK signed the treaty on December 13, 2000 but has not yet ratified it.¹⁸

The Trafficking Protocol lays out the first internationally accepted definition of trafficking as:

“...[T]he recruitment, transportation, transfer, harboring 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 purposes of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”¹⁹

Furthermore, the Protocol clarifies that the consent of a person to trafficking is irrelevant if threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person is used.²⁰ It also states that the recruitment, transportation, transfer, harboring or receipt of a child under age 18 for exploitation is trafficking even if it does not involve any of the means defined.²¹

The Trafficking Protocol requires that countries facilitate the safe return of their trafficked nationals and residents.²² It also requires the receiving country that is returning a trafficked person to do so with due regard for the safety of the trafficked person and the status of any relevant legal proceeding related to the trafficking.²³ The protocol mandates that governments, to the extent possible, strengthen border controls to detect and prevent trafficking.²⁴ This includes training immigration and other law enforcement officials to prevent trafficking, prosecute traffickers and to protect the rights of trafficked persons.²⁵

¹⁷ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by UN General Assembly (November 15, 2000) (entered into force, December 25, 2003) (hereinafter Trafficking Protocol).

¹⁸ United Nations Office on Drugs and Crime, UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, www.uncjin.org.

¹⁹ Trafficking Protocol, art. 3(a).

²⁰ Trafficking Protocol, art. 3(b).

²¹ Trafficking Protocol, art. 3(c)-3(d).

²² Trafficking Protocol, art. 8.

²³ Trafficking Protocol, art. 8.

²⁴ Trafficking Protocol, art. 11.

²⁵ Trafficking Protocol, art. 10.

Human rights organizations and experts have criticized the Trafficking Protocol for its relatively weak language on the rights and assistance needs of trafficking victims.²⁶ For example, the protocol requires a state party to protect the confidentiality of trafficked persons “in appropriate cases and to the extent possible under its domestic laws.” It urges a state party “to consider” implementing programs to address the physical, psychological and social recovery of victims, especially provision of appropriate housing, counseling, medical care, material assistance and employment, educational and training opportunities. It encourages a state “to endeavor” to address the physical safety of victims, and “to consider” adopting measures to permit victims to remain temporarily or permanently in their territories. Finally, it notes that return of trafficked persons “shall preferably be voluntary.”

This language is non-binding rather than mandatory in nature. This weakness in part reflects the fact that the protocol was negotiated under the auspices of the UN Crime Commission, a body whose mandate is grounded in law enforcement rather than human rights.²⁷ However, regardless of whether they are a party to the Trafficking Protocol, countries are obligated under international human rights instruments to protect the rights of trafficked persons. Article 14 of the Trafficking Protocol, moreover, contains a savings clause that notes that the protocol should not be interpreted to undermine state obligations under human rights, humanitarian or refugee law, including the principle of *non-refoulement*.

European Regional Standards with Regard to Asylum

Europe witnessed increasing numbers of asylum seekers throughout the 1990s, making migration one of the most hotly debated topics across the region, including in the UK.²⁸ However, by 2003 these numbers started to fall; from 2002 to 2003, in only one year, European states saw a 22 percent decrease in applications, and the UK alone experienced an astounding 41 percent drop.²⁹ Nonetheless, public concerns about migration continue, as evidenced by the May 2005 UK election in which migration was a central and highly controversial issue. In response to such concerns, the European Union has sought to develop minimum standards for member states’ asylum policies and procedures in order to address the flow of asylum seekers into the region.

Standards in the region are grounded both in the Refugee Convention and the European Convention on Human Rights. The European Convention protects the rights of all peoples within

²⁶ See, e.g., Ann D. Jordan, International Human Rights Law Group, *The Annotated Guide to the Complete UN Trafficking Protocol* (May 2002); Anne Gallagher, “Trafficking, Smuggling, and Human Rights: Tricks and Treaties,” *Forced Migration Review* #12, February 2002; also Interview with Bandana Pattanaik, Global Alliance Against Trafficking in Women (April 26, 2004).

²⁷ Ann D. Jordan, International Human Rights Law Group, *The Annotated Guide to the Complete UN Trafficking Protocol* (May 2002).

²⁸ “From Flood to Trickle,” *The Economist* (September 4, 2004). Since 2000, the UK received the highest volume of asylum applications of any EU state, but on a per capita basis, ranked only ninth among the 15 EU members. The top ten sending countries to the UK in 2003 were Somalia, Iraq, China, Zimbabwe, Iran, Turkey, Afghanistan, India, Pakistan and the Democratic Republic of Congo. House of Lords European Union Committee, “Handling EU Asylum Claims: New Approaches Examined” (April 2004).

²⁹ UNHCR, “Asylum Levels and Trends: European and Non-European Industrialized Countries” (2003); House of Lords European Union Committee, “Handling EU Asylum Claims: New Approaches Examined” (April 2004).

a member state of the Council on Europe, including the right to be free from torture or inhumane and degrading treatment or punishment.

The Treaty of Amsterdam required the European Council to adopt measures by May 2004 to address asylum that are in accordance with the international refugee framework laid out in the Refugee Convention. Such measures are to incorporate criteria and mechanisms for determining which state has responsibility for considering an asylum application, minimum standards on the reception of asylum seekers, minimum standards with respect the refugee definition and minimum standards for procedures granting or withdrawing refugee status.

In a meeting held in Tampere, Finland in October 1999, the European Council affirmed that a common European asylum system must be grounded in full application of the Refugee Convention and respect the principle of *non-refoulement*. By the May 2004 deadline, the European Council had substantially completed its mandate to adopt a series of regulations and directives designed to create minimum standards for the handling of asylum claims.³⁰ Concerns remain, however, that these standards reflect the lowest common denominator among states' domestic practices in the area of asylum, raising the possibility that states with more generous practices would justify backing off asylum protections by arguing that they are in compliance with EU standards.³¹

European Regional Standards with Regard to Trafficking

European states have developed their own set of human rights standards that are considered binding among members of the Council of Europe. The Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) guarantees the right to nondiscrimination; the right to life; the right to liberty and human security; the right to be free from torture, inhumane or degrading treatment; and the prohibition of slavery and forced labor.³² The European Social Charter guarantees the right to just, safe and healthy working conditions, as well as the right to social and economic protection.³³ Neither of these treaties addresses trafficking *per se*, but together they are interpreted to forbid trafficking.³⁴

In addition, the Council of Europe, through its Ad Hoc Committee on Action Against Trafficking in Human Beings, has recently adopted a treaty that specifically addresses trafficking. The Convention proposes measures to prevent and combat trafficking through migration measures such as tighter border controls and greater document verification. It calls for victim protection through various forms of assistance, legal compensation and redress, and repatriation. It also establishes a monitoring body to assist in implementation of the convention.³⁵

³⁰ House of Lords European Union Committee, "Handling EU Asylum Claims: New Approaches Examined" (April 2004).

³¹ House of Lords European Union Committee, "Handling EU Asylum Claims: New Approaches Examined" (April 2004).

³² Convention for the Protection of Human Rights and Fundamental Freedoms, 213 UN Treaty Series 222, entered into force September 3, 1953.

³³ European Social Charter, 529 UN Treaty Series 89, entered into force February 26, 1965.

³⁴ UNIFEM, *Stop Violence Against Women*, available at www.stopvaw.org/Council_of_Europe.

³⁵ Ad Hoc Committee on Action Against Trafficking in Human Beings, Revised Draft Council of Europe Convention on Action Against Trafficking in Human Beings (Strasbourg, July 5, 2004).

While they have welcomed the new convention as a positive step, the NGO community had urged the Council of Europe to incorporate in the treaty a greater recognition of the rights and needs of trafficked persons.³⁶ This included calling for a three-month reflection period in which trafficking victims can recover and decide what they wish to do to address their situation, including whether they wish to cooperate with law enforcement authorities in prosecution efforts; the creation of six-month renewable and permanent residence visas on the basis of the needs of and risks faced by the victim; and a guarantee that no victim will be returned to a country where she will face harm.³⁷ It also included prohibiting repatriation of a trafficked person if such return would jeopardize the individual's life or safety, including if there is a risk of re-trafficking.³⁸ NGOs were also concerned that certain states were supporting the inclusion of a provision that would make the treaty subsidiary to European Union legislation.³⁹ At the time this report was going to print, the convention had just been adopted.

In 2002, the European Union adopted a "Framework Decision on Combating Trafficking in Human Beings." The framework focuses on trafficking for purposes of labor and sexual exploitation. It calls upon members of the European Union to incorporate in their domestic laws criminal penalties against all forms of trafficking. Under Article 9, it requires member states to ensure that trafficked persons are "given adequate legal protection and standing in judicial proceedings...and that criminal investigations and judicial proceedings do not cause any additional damage for a victim."⁴⁰

In April 2004, the European Union adopted additional standards for the issuance of residence permits to trafficked persons who cooperate with the authorities. The Council Directive instructs states to develop mechanisms in their laws for a reflection period and a residence permit of at least six months. States are to comply with the directive by August 2006.⁴¹

UK Asylum Law

The UK is a party to the Refugee Convention, the principles of which it incorporated into its domestic laws through the Asylum and Immigration Appeals Act of 1993. This included the

³⁶ See, e.g., Churches' Commission for Migrants in Europe, Conference of European Churches and Caritas Europe, Press Release, "Churches Welcome Pan-European Instrument Against Trafficking in Human Beings" (July 21, 2004); European Women's Lobby, "Contribution to the Council of Europe Draft Convention on Action Against Trafficking in Human Beings" (December 5, 2003).

³⁷ UNIFEM, *Stop Violence Against Women*, available at www.stopvaw.org/Council_of_Europe; Amnesty International, "General Recommendations on the Draft European Convention Against Trafficking in Human Beings" (September 4, 2004).

³⁸ Amnesty International, "General Recommendations on the Draft European Convention Against Trafficking in Human Beings" (September 4, 2004); Amnesty International and Anti-Slavery International, Joint Press Release, "Council of Europe: One More Chance to Enhance the Protection of Human Rights of Trafficked Persons" (December 6, 2004).

³⁹ Amnesty International and Anti-Slavery International, Joint Press Release, "Council of Europe: One More Chance to Enhance the Protection of Human Rights of Trafficked Persons" (December 6, 2004); European Women's Lobby, "EWL Contribution to the Council of Europe Draft Convention on Action Against Trafficking in Human Beings in View of Its 7th Meeting" (December 12, 2004).

⁴⁰ "Council Framework Decision on Combating Trafficking in Human Beings" (2002/629/JHA).

⁴¹ "Council Directive of 29 April 2004 on the Residence Permits Issued to Third-Country Nationals Who Are Victims of Trafficking in Human Beings" (2004/81/EC).

definition of a refugee as someone having a well-founded fear of persecution on the basis of race, religion, nationality, political opinion or membership in a particular social group. Since 1993, the UK government has amended its domestic asylum law four times, often in response to increasing anti-asylum sentiment in the British public.⁴² The Asylum and Immigration Act 1996 removed benefit entitlement to in-country applicants, restricted access to housing and introduced restrictions on employment. It established strict time limits for appeals for applicants from certain countries the government considered did not pose a serious risk of persecution and for those applicants denied on the basis of a lack of credibility. It also disallowed applications from individuals who traveled through “safe third countries,” such as the United States or EU countries.⁴³

In 1999, all asylum applicants were deemed ineligible for social benefits. The National Asylum Support Service was established to support and disperse asylum seekers. The dispersal process relocates asylum seekers to communities across the UK in order to deter their heavy concentration in urban areas.⁴⁴

The Nationality, Immigration and Asylum Act 2002 further curtailed asylum seekers’ eligibility for benefits and imposed new restrictions on the right to apply for asylum. These included the introduction of reporting requirements for asylum seekers, restrictions on multiple appeals, allowing certain applicants to be deported prior to consideration of their appeals and the introduction of a list of “safe countries.” Applications from the latter are presumed clearly unfounded and are fast-tracked through the adjudication process in seven days. The legislation also expanded the power of the government to detain asylum seekers.⁴⁵ While such provisions increased restrictions on the ability of asylum seekers to obtain refugee protection in the UK, the legislation at the same time called for greater sensitivity to unaccompanied children arriving in the UK through child-sensitive interviewing techniques when children’s claims are adjudicated and closer working relationships between the Home Office and local authorities when caring for such children.⁴⁶

The 2002 Act was quickly followed by the Asylum and Immigration Act 2004, which continued the trend of tighter restrictions on asylum seekers arriving in the UK.⁴⁷ The 2004 Act radically altered the asylum appeals process, replacing a two-tier review with a single adjudication before the newly created Asylum and Immigration Tribunal and limiting judicial review of administrative decisions. Further changes were made to restrict eligibility for benefits, to increase penalties for document fraud and to expand the safe third country provisions. The

⁴² Liberal Democrats, “Safe Havens: A Fair and Liberal Approach to Asylum” (September 2004).

⁴³ For a summary of UK asylum law and process, see Refugee Council, “UK Asylum Law & Process,” available at www.refugeecouncil.org.uk/infocentre.

⁴⁴ Refugee Council, “UK Asylum Law & Process,” available at www.refugeecouncil.org.uk/infocentre.

⁴⁵ Refugee Council, “The Nationality, Immigration and Asylum Act 2002: Changes to the Asylum System in the UK” (December 2002).

⁴⁶ Refugee Council, “The Nationality, Immigration and Asylum Act 2002: Changes to the Asylum System in the UK” (December 2002). For the first time in British law, the Act also addressed the issue of trafficking for prostitution. See next section for detailed description.

⁴⁷ Like the 2002 Act, the new legislation also addressed the trafficking issue. See next section for detailed description.

legislation also permitted the use of electronic monitoring devices to track applicants' whereabouts while they are in deportation proceedings.⁴⁸

Recognition of asylum claims made by women and children based on persecution they experience because of their gender or age has been uneven in the UK. Like international refugee law, UK asylum law does not explicitly recognize gender persecution as a ground for refugee protection. However, the immigration appellate authority has developed procedural, evidentiary and legal guidelines for the adjudication of cases based on gender persecution.⁴⁹ The Home Office accepted the guidelines into its asylum policies in March 2004.⁵⁰ Also, in 1999 the House of Lords granted asylum to women from Pakistan fleeing persecution in the *Shah* case. The decision represented a significant step forward in the recognition of women as a social group under the refugee definition.⁵¹

Despite this progress, an analysis conducted in 2003 revealed that women applicants still face skepticism in the asylum process that often leads to denials of their cases in the initial decision stage before the Home Office.⁵² It was also unclear whether the gender guidelines have had any real impact at the appeals level.⁵³

UK law similarly does not explicitly recognize violations of children's rights as a basis for asylum, nor do the immigration authorities have guidelines for the adjudication of children's claims.⁵⁴ In the past, the UK government rarely deported children under age 18 even if they would otherwise be considered removable. In recent years, however, advocates report that the deportation of children is becoming more common. The government plans to start deporting separated children through a pilot project in Albania; this has not happened yet, except in cases where children who are under age 18 have been mistakenly treated as adults.⁵⁵

In addition to asylum, UK law permits the temporary protection of individuals who may not qualify for refugee status but who are unable to return to their home countries for reasons other than the forms of persecution recognized under the refugee definition. Applicants whose safety is at risk if returned to their homeland but are unable to meet the rigorous criteria under the refugee definition may still be able to remain temporarily in the UK. Until 2003, this status was known as "exceptional leave to remain." Subsequently, the status was changed and became known as "humanitarian protection" or "discretionary leave."

⁴⁸ Refugee Council, "Asylum and Immigration Act 2004: Main Changes and Issues of Concern" (September 2004).

⁴⁹ Immigration Appellate Authority, "Asylum Gender Guidelines" (November 2000).

⁵⁰ Interview with Asylum Aid (September 27, 2004).

⁵¹ *Islam (A.P.) v. Secretary of State for the Home Department and Regina v. Immigration Appeals Tribunal and Another Ex Parte Shah (A.P.) (Conjoined Appeals)* (House of Lords 1990).

⁵² Refugee Women's Resource Project, "Women Asylum Seekers in the UK: A Gender Perspective," (Asylum Aid, February 2003).

⁵³ Refugee Women's Resource Project, "Women Asylum Seekers in the UK: A Gender Perspective," (Asylum Aid, February 2003).

⁵⁴ Interview with Refugee Council (September 23, 2004).

⁵⁵ Susan Ellery, Service Manager, Leaving Care and Child Asylum, West Sussex County Council (e-mail, March 4, 2005).

Humanitarian protection is available to those individuals who would be at risk of death, torture or inhumane or degrading treatment if returned. This status is typically granted for three years (although it can be for shorter periods) and then is reviewed before being extended.

Applicants receive discretionary leave when they cannot be removed from the country due to serious illness or because return would contravene their human rights under Article 8 of the European Convention on Human Rights. It is also typically granted to unaccompanied children under age 18 who do not qualify as refugees but cannot be returned to adequate reception arrangements in their home countries. Like humanitarian protection, discretionary leave is usually granted for a three-year period, although it may be given for a shorter period, for example to children who are less than three years away from their 18th birthday.⁵⁶

The Migration Debate: Ensuring a Role for Protection

In recent years, migration has become one of the most hotly debated social issues in Europe, as well as in other industrialized countries such as Australia, Canada and the United States. Just as globalization has led to the increased movement of goods across borders, so, too, has it led to the movement of peoples. The notions of sovereignty and national identity have therefore been challenged as never before.

Refugees and trafficked persons present unique challenges to countries struggling to determine their policies on migration. While governments may rightly determine who should enter their jurisdictions “in search of a better life,” that is, for employment, education or for purposes of reuniting with family members who have already migrated, they must protect the human rights of all migrants, and they have a special obligation under international refugee standards to protect those who have been forced to flee their home countries because they fear persecution.

The refugee definition was created in the wake of World War II, when countries faced the consequences of their failure to admit those individuals fleeing the horrific acts of the Nazi regime. However, this experience continues to affect traditional notions of persecution; governments find it much easier to accept those who have fled abuses resulting from activities in the public political realm than they do those fleeing abuses in the private realm. Women and children, especially, are more likely to face abuse afflicted by private actors, for example, by family or community members, than from government actors. Ironically, this reality results from the very role that women and children are forced to play in many societies due to a lack of respect for their basic human rights.

Victims of trafficking—of whom women and children constitute the overwhelming majority just as they do in the refugee population—present similar challenges to traditional protection regimes. Endemic discrimination against them and their inherent vulnerability during times of political upheaval put them uniquely at risk of trafficking. Yet governments often respond to trafficking as a migration problem rather than a human rights challenge, using trafficking as a justification for tighter border controls.

Such a response effectively holds trafficked persons responsible for their abusers’ exploitation of migration policies. Moreover, it ignores the fact that trafficking victims who are forced to return to their homelands are often at grave risk of simply being re-trafficked, thus perpetuating the migration cycle. These are the unavoidable challenges that the international community must address if it wishes to quell the phenomenon of trafficking.

⁵⁶ For a summary of UK asylum law and process, see Refugee Council, “UK Asylum Law & Process,” available at www.refugeecouncil.org.uk/infocentre; see also Mano Candappa, “Prevention and Fight Against Trafficking: Institutional Developments in Europe (UK Report)” (University of Warwick, 2003).

UK Anti-trafficking Law

Until three years ago, the UK had no explicit laws that addressed trafficking. Instead, traffickers were punished through anti-pimping and immigration laws.⁵⁷ Child welfare law under the Children Act 1989 also addressed the protection of all children in the UK regardless of status, mandating that local authorities care for children in need.⁵⁸

As a stopgap measure, the UK created an offense of trafficking for the first time through the Nationality, Immigration and Asylum Act 2002, but only for purposes of prostitution. The Sexual Offenses Act 2003 incorporated this provision and expanded it to address other forms of sexual exploitation beyond prostitution. It also criminalized the commercial sexual exploitation of a child under age 18, the penalty for which can be life imprisonment. Under both these Acts, the maximum penalty for trafficking is 14 years' imprisonment.

The Asylum and Immigration Act 2004 extended the domestic definition of trafficking under UK law beyond sexual offenses to other forms of exploitation, such as forced labor and domestic servitude. This expansion responded in part to EU legislation requiring member states to introduce a framework to address all forms of trafficking by August 2004.⁵⁹

Clearly the UK government is making efforts to combat trafficking through the legislation outlined above. However, there is still no specific mechanism to offer trafficked persons legal protection; instead, they must qualify for asylum or humanitarian protection.

Migration experts, including many in the NGO community, have rightly raised the concern that implementation of the relatively new anti-trafficking laws may be hindered by the increasing restrictions on access to the UK asylum system. Ironically, the more states make it difficult for asylum seekers to access their territories, the more likely it is that individuals may be at risk of trafficking, as those desperate to leave their home countries will become susceptible to the types of force, deception and coercion commonly employed by traffickers.⁶⁰ As one policy-maker put it, "The more difficult your life is, the more attractive the offer will seem."⁶¹

⁵⁷ Elaine Pearson, *Human Trafficking, Human Rights: Redefining Victim Protection* (Anti-Slavery International 2002).

⁵⁸ Child Welfare Act 1989 (c. 41), available at www.hmsso.gov.uk; Kent County Social Services and West Sussex County Council Social Services, "Submission to the European Commission's Experts Group on Trafficking in Human Beings," (May 2004); Interview with West Sussex County Council (September 22, 2004).

⁵⁹ Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings (July 19, 2002); Amelia Hill, "Child Slave Smugglers will Face Jail At Last," *The Observer* (November 9, 2003).

⁶⁰ Interview with Asylum Aid (September 27, 2004); John Morrison and Beth Crosland, "The Trafficking and Smuggling of Refugees: The End Game in European Asylum Policy?" (July 2002); John Morrison, "How Anti-Trafficking Initiatives Criminalize Refugees" (Campaign Against Racism and Fascism, April/May 2001); Tom Obokata, "Trafficking and Smuggling on Human Beings in Europe: Protection of Individual Rights or States' Interests?" (2001); European Council on Refugees and Exiles, "An Overview of Proposals Addressing Migrant Smuggling and Trafficking in Persons" (July 2001).

⁶¹ Interview with Tim Colbourne, Liberal Democrats Home Affairs Advisor (September 28, 2004).

THE DEMOGRAPHICS OF TRAFFICKING IN THE UK

Estimated Number of Trafficked Persons

Assessing the number of trafficked persons is notably difficult. Trafficked persons are rarely detected by authorities, and even when they are, may not necessarily be identified as trafficked. Trafficked persons themselves are typically too fearful to come forward, and even if apprehended, may not want to share their experience with authorities. Moreover, mechanisms to systematically collect what little data may exist are weak.⁶² The UK is no exception to these barriers to sound data collection.

However, in 2000, based on available data from 1998, the Home Office estimated that between 142 and 1,420 women are trafficked each year into the UK.⁶³ In 2003, UNICEF reported that at least 250 children had been identified by police, the immigration authorities, social service agencies and NGOs as trafficked in the prior five years.

It is generally agreed that the number of actual cases is likely to be much higher. UNICEF concluded, “There may be literally hundreds, if not thousands, of children in the UK who have been brought here for exploitation.”⁶⁴ Trafficked persons are mostly concentrated in urban areas in the UK, but service providers report that they are seeing increasing numbers in rural areas.⁶⁵

Where Trafficked Persons Come From

Trafficking by its very nature is a constantly changing phenomenon. Just as estimating the numbers of trafficking victims is difficult, so, too, is ascertaining the countries from which they originate. However, traffickers generally exploit migration routes that already exist or are emerging.⁶⁶

In the UK, most victims come from Eastern Europe, Asia and West Africa. Among the top sending countries are Lithuania, Romania, Moldova, Ukraine, Thailand, Vietnam, the Democratic Republic of Congo, Sierra Leone, Ghana and Nigeria.⁶⁷ UNICEF has reported that children who are trafficked to the UK come from Sierra Leone, Nigeria, the Democratic Republic of Congo, Ethiopia, Angola, Burundi, Malawi, South Africa, Kenya and Uganda.⁶⁸

⁶² Liz Kelly and Linda Regan, “Stopping Trafficking: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK,” Home Office (2000); See Kristiina Kangaspunta, “Mapping the Inhuman Trade: Preliminary Findings of the Human Trafficking Database” (United Nations Division for the Advancement of Women, December 2003).

⁶³ Liz Kelly and Linda Regan, “Stopping Trafficking: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK,” Home Office (2000); Anti-Slavery International, “Questions Answered,” available at www.stophumantrafficking.org.

⁶⁴ UNICEF, “Stop the Traffic!” (July 2003).

⁶⁵ Interview with Refugee Arrivals Project (September 24, 2004).

⁶⁶ Interview with Anti-Slavery International (September 27, 2004).

⁶⁷ Interview with the POPPY Project (September 22, 2004).

⁶⁸ UNICEF, “Stop the Traffic!” (July 2003).

The Root Causes of Trafficking

While undoubtedly economic deprivation acts as a significant factor driving trafficking to the UK, it is also notable that many of the countries of origin are either in conflict, recovering from conflict or experiencing noteworthy human rights problems. The poverty that they are experiencing, moreover, is often linked to political instability. As one local NGO representative from Nigeria put it, “Poverty is the major cause of trafficking. But poverty often results from conflict. Displaced children lack love and roofs over their heads, so they are vulnerable.”⁶⁹ Agencies report that they have served children who were orphaned by civil wars in countries such as Sierra Leone and that the traffickers are aware that such children are often easy prey.⁷⁰

Violations of the rights of women and children are also prevalent in many of these countries; for example, gender discrimination often pervades the labor market and children’s education is neglected. Service providers working with trafficked women in the UK also report that many of their clients had previously experienced domestic violence and had no recourse to government protection. Some had been raped in their home countries, and experienced social stigma as a result. Some have reported that the traffickers themselves rape the women to increase the pressure on the women to leave, knowing that the women’s communities are likely to reject them as a result of the rape. Other women report that they were lured by promises of travel from the traffickers; restrictions on the mobility of women in their home countries make such promises attractive. Still others are single mothers who struggle to survive without the help of male family members on whom they would traditionally rely for support in their cultures.⁷¹

A social service agency that works with trafficked persons reported that it had assisted girls from Sierra Leone as young as 13 years old. In at least two cases, the girls had been raped while living in refugee camps. As a result, they were ostracized by the community and forced to leave. Both were then trafficked to the UK.*

* Interview with the POPPY Project (September 22, 2004).

Abuses Faced by Trafficked Persons in the UK

While some trafficking victims are forced by their captors to travel to the UK, it is more common for the traffickers to deceive them with false promises of a job or education in the UK. Typically, the traffickers will then take the victims’ documents away, leaving them vulnerable to the immigration authorities. The traffickers will often force victims to work off “debts” to pay for their travel costs, rent, food or other expenses; these debts are then arbitrarily increased, making it virtually impossible for victims to pay off their captors.

Some women and children are trafficked and forced into sex work. Other women may knowingly come to the UK to engage in prostitution, but are then forced to work in abusive conditions and

⁶⁹ Interview with Her Excellency Eki Igbinedion, Edo Underprivileged Children’s Scholarship Trust Fund (Save Our Children) (September 21, 2004).

⁷⁰ Interview with the POPPY Project (September 22, 2004).

⁷¹ Interview with the POPPY Project (September 22, 2004).

held in debt bondage.⁷² It is estimated that as many as 70 to 80 percent of sex workers in London are foreign-born, although clearly not all—and perhaps not even a large minority—of these workers have been trafficked.⁷³ However, ECPAT UK has pointed out that the fact that more and more sex workers come from outside the UK indicates that sex trafficking is likely increasing.⁷⁴

Some trafficked children, especially those from West African countries, are used in fetish ceremonies. The traffickers convince the children that they will die if they tell their parents or anyone else what has happened to them.⁷⁵ The children are then killed or mutilated in ritual ceremonies. A Nigerian expert who has led a campaign to stop such abuses observed, “They are young children who have been dehumanized, stripped of their rights and left with no voice.”⁷⁶

Social service providers and law enforcement agencies have also raised the concern that children are trafficked to the UK in order for adults to exploit them to access welfare benefits, claiming them as their own children. These children reportedly are often severely neglected while being thus used. They may be denied education and health care, for example, and are vulnerable to other forms of exploitation, such as forced domestic work.⁷⁷

Other women and children are forced into domestic slavery. They work as much as 18 hours a day, cleaning houses and caring for children. Sexual abuse and beatings often accompany this forced labor.⁷⁸ While such abuses are difficult to detect because they occur in private home settings, some experts believe that this form of trafficking actually exceeds trafficking for sexual exploitation.⁷⁹

Other forms of forced labor may also be inflicted on trafficked persons. For example, a group of 19 trafficked Chinese, including two women, drowned while cockle fishing in Lancashire in February 2004.⁸⁰ Child victims, moreover, have been forced to engage in contraband trafficking or restaurant work.⁸¹

⁷² Tania Branigan, “Plight of London’s Hidden Prostitutes Revealed,” *The Guardian* (August 20, 2004).

⁷³ Interview with Refugee Arrivals Project (September 24, 2004); See “It’s a Foreigner’s Game,” *The Economist* (September 4, 2004); Tania Branigan, “Plight of London’s Hidden Prostitutes Revealed,” *The Guardian* (August 20, 2004).

⁷⁴ Carron Somerset, “What the Professionals Know: The Trafficking of Children Into, and Through, the UK for Sexual Purposes,” ECPAT UK (November 2001).

⁷⁵ Interview with London Metropolitan Police (September 22, 2004).

⁷⁶ Interview with Her Excellency Eki Igbinedion, Edo Underprivileged Children’s Scholarship Trust Fund (Save Our Children) (September 21, 2004).

⁷⁷ Interview with London Metropolitan Police (September 22, 2004); Kent County Council Social Services and West Sussex County Council Social Services, “Submission to the European Commission’s Experts Group on Trafficking in Human Beings” (May 2004).

⁷⁸ See “Teenagers Traded for Slave Labour and Sex,” *Guardian Unlimited* (July 30, 2003); Gary Hinsliff, “Children Forced Into UK Slavery,” *The Observer* (May 18, 2003).

⁷⁹ “Children Forced Into UK Slavery,” *The Observer* (May 18, 2003).

⁸⁰ Felicity Lawrence, Hsiao-Hung Pai, Vikram Dodd, Helen Carter, David Ward and Jonathan Watts, “Victims of the Sands and the Snakeheads,” *The Guardian* (February 7, 2004); “19 Deaths at Morecambe Bay Still Remains a Mystery” (February 11, 2004), available at www.ukchinese.co.uk

⁸¹ Carron Somerset, “Cause for Concern? London Social Services and Child Trafficking,” ECPAT UK (May 2004).

EFFORTS IN THE UK TO COMBAT TRAFFICKING

INTRODUCTION

In a letter outlining its interventions to combat trafficking, the Home Office described its efforts as follows:

“The Government is committed to effectively tackling all aspects of human trafficking. The UK was one of the first countries to sign the Optional Protocol to the United Nations Convention on Transnational Organised Crime, which deals with trafficking of human beings, and is fully committed to its implementation. The Government’s strategy to combat trafficking is multi-faceted. It aims to ensure that there is legislation in place to criminalise trafficking, that the UK provides appropriate support for victims of trafficking, that the UK co-operates with international partners to work to prevent trafficking at source, and that enforcement action against trafficking is effective.”⁸²

While the UK has most certainly made efforts to address trafficking on all the fronts outlined by the Home Office, to date these efforts have not been unified into an effective, comprehensive strategy that not only prevents, deters and punishes trafficking, but, most importantly, embraces the rights and protection of trafficked persons as its centerpiece.

VICTIM PROTECTION

Government authorities at both the national and local levels have supported initiatives to protect and assist trafficking victims. However, such support has often been limited in scope and inconsistently provided.

This reality results in part from the national government’s tendency to view trafficking as a migration problem rather than a human rights violation, a point that was made repeatedly by NGOs and even government officials with whom the Women’s Commission met. Despite strong efforts by many in the public and private sectors, the protection of trafficked persons is still not systematically addressed to ensure that those victims that require sustained assistance receive it and are not wrongly returned to their homelands where their lives and safety may be in jeopardy. Nor is victim protection even adequately considered as an essential element to the success of law enforcement efforts to crack down on trafficking.

Because migration is such a controversial issue in the UK, the approach to trafficking has at times overemphasized law enforcement—including immigration law enforcement—at the expense of the protection needs of the victim. As one advocate observed, “There is a real split between law enforcement and victims’ rights.”⁸³

⁸² Letter to Women’s Commission for Refugee Women and Children from Ms. Sam Evans, Head of Provision for Victims of Sexual Offending and Human Trafficking, Home Office (September 6, 2004).

⁸³ Interview with Refugee Council (September 23, 2004).

LEGAL PROTECTION

Currently, the UK has no explicit mechanism in its laws for either the temporary or permanent protection of trafficked persons. The only legal recourse for obtaining protection is through asylum or the corollary forms of protection of humanitarian protection or discretionary leave (formerly known as exceptional leave to remain).⁸⁴

Asylum is critical to the protection of trafficked persons in two ways. First, they may have been trafficked because they were attempting to escape a situation of armed conflict or human rights abuses that would qualify them for refugee status, regardless of their trafficking experience. Second, the fact that they were trafficked could render them eligible for asylum if they have a well-founded fear of persecution; for example, they fear being re-trafficked if returned, and their home country is unable or unwilling to help them.

Very few trafficked woman have been granted refugee status and humanitarian protection in the UK. These cases are granted under the European Convention on Human Rights, and normally on appeal.⁸⁵ In one case, a Nigerian woman who had actually been trafficked twice to the UK won asylum on appeal. Advocates considered this a rare case, however, because of the strength of the evidence presented. They noted, “It is hard to show evidence that trafficking will happen again, which is what most of the trafficking cases swing on.”⁸⁶

A few trafficking victims, however, have received exceptional leave to remain (now known as humanitarian protection). This includes two young women who had been trafficked as teenagers after being raped in refugee camps after they fled the civil conflict occurring in their homeland of Sierra Leone. Their asylum claims were rejected on the basis that they had not established a social group for purposes of the refugee definition. They were subsequently granted temporary protection on appeal of their rejected asylum claim.⁸⁷

⁸⁴ **Humanitarian Protection** is leave granted to a person who would, if removed, face in the country of return a serious risk to life arising from the death penalty; unlawful killing; or torture or inhuman or degrading treatment or punishment. If a person has been refused asylum they may still be considered for this status.

Humanitarian Protection is normally granted for a period of 3 years, after which the person can apply for Indefinite Leave to Remain. A person who is granted Humanitarian Protection is allowed to work and has access to public funds.

Discretionary Leave can be considered for people that have not been considered for international protection, or have been excluded.

Discretionary Leave may be granted if, for example, the applicant is an Unaccompanied Asylum Seeking Child (UASC) for whom adequate reception arrangements in their country are not available, or if the person is able to demonstrate particularly compelling reasons why removal would not be appropriate.

Exceptional Leave to Remain has been replaced by two sub categories. These are Humanitarian Protection and Discretionary Leave. **Humanitarian Protection** is leave granted to a person who would, if removed, face in the country of return a serious risk to life arising from the death penalty; unlawful killing; or torture or inhuman or degrading treatment or punishment. If a person has been refused asylum they may still be considered for this status. Humanitarian Protection is normally granted for a period of 3 years, after which the person can apply for Indefinite Leave to Remain. A person who is granted Humanitarian Protection is allowed to work and has access to public funds. <http://www.immigration4uk.co.uk/leave.html>. (Accessed June 8, 2004.)

⁸⁵ For some examples, see Mike Kaye, “The Migration Trafficking Nexus,” Anti-Slavery International, London (2003).

⁸⁶ Interview with Refugee Council (September 23, 2004).

⁸⁷ Interview with the POPPY Project (September 21, 2004).

Service providers were concerned that authorities were deliberately delaying notification of denials of asylum to some trafficked persons in order to follow through on the prosecution of the traffickers involved before the witnesses are deported. They reported that this delay could potentially hurt the ability of victims to gain asylum on appeal. The UK generally has a strict time limit of 10 working days on the filing of appeals of negative decisions,⁸⁸ and the holding back of decisions pending the criminal prosecution was resulting in the appeal period lapsing before the victim was aware that her case had been denied. She would then have to justify why her appeal was late.

The Poppy Project has discovered that its clients were denied asylum when the victim was denied public assistance normally available to asylum seekers. In one case, the woman was also taken into custody but was later able to challenge the decision successfully. These delays are particularly worrisome, given that most asylum cases are initially denied in the UK and often are only granted after appeal.⁸⁹

Tension also exists between protecting trafficked persons and the increasingly restrictive asylum measures put in place by the UK government, as the latter may undermine the former.⁹⁰ A member of the House of Lords noted: “The asylum debate is getting worse. Providing people with work authorization attracted migration, and traffickers found this convenient. Now the issues are muddled. Policy-makers may know the difference between refugees and migrants, but people on the street do not. There is a strong feeling of ‘enough.’ But we have to salvage the asylum system or else we cease to be a civilized country.”⁹¹

For example, the UK has begun to identify countries that it believes respect human rights and to limit access to the asylum system for nationals from such countries. Applications from such countries are deemed clearly unfounded unless the applicant can prove otherwise. The adjudication of their claims is fast tracked, and an appeal of a negative decision must be done from abroad.⁹²

The list of countries considered safe is known as the “white list.” The countries on the white list are Albania, Bangladesh, Bolivia, Brazil, Bulgaria, Cyprus, the Czech Republic, Ecuador, Estonia, Hungary, Jamaica, Latvia, Lithuania, Macedonia, Malta, Moldova, Poland, Romania, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Sri Lanka and Ukraine.⁹³ This list is also expanding; in January 2005, India was added, bringing the total of “safe countries” up to 25.⁹⁴

⁸⁸ “How to Appeal,” available at www.ind.homeoffice.gov.uk.

⁸⁹ E-mail from Louise Hinchliffe, Information Officer, The POPPY Project (May 5, 2005).

⁹⁰ Interview with Refugee Arrivals Project (September 24, 2004).

⁹¹ Interview with Baroness Anelay, House of Lords (September 24, 2004).

⁹² Press Release, Immigration and Nationality Directorate, “India Added to Safe Country List to Cut Asylum Abuse” (January 18, 2005).

⁹³ Press Release, Immigration and Nationality Directorate, “India Added to Safe Country List to Cut Asylum Abuse” (January 18, 2005).

⁹⁴ Press Release, Immigration and Nationality Directorate, “India Added to Safe Country List to Cut Asylum Abuse” (January 18, 2005). Moreover, the EU has developed its own list of safe countries with which member states are

NGOs working with trafficked persons point out that several of the countries on the white list are also source countries in the trafficking context. The POPPY Project, for example, pointed to the case of a Romanian woman who had been trafficked who was told to return home to appeal her denial of asylum because Romania is on the white list.⁹⁵ There have also been a number of cases of re-trafficked Albanian women. The Refugee Women's Resource Project has also reported that in some of the white list countries, violations of women's rights and gender persecution are extensive.⁹⁶

expected to comply. Alan Travis, "EU Asylum List Prompts Human Rights Fears," *The Guardian* (September 27, 2004).

⁹⁵ Interview with the POPPY Project (September 22, 2004).

⁹⁶ Refugee Women's Resource Project, "Safe for Whom?" (Asylum Aid, June 2004).

The U.S. Department of State every year ranks countries on their performance in combating trafficking. The vast majority of countries on the UK White List of safe countries were deemed as performing below par by the United States.*

“White List” Countries	State Department Ranking
Cyprus	Tier 2 Watch list
Czech Republic	Tier 1
Estonia	Tier 2 Watch list
Hungary	Tier 2
Latvia	Tier 2
Lithuania	Tier 1
Malta	(not ranked)
Poland	Tier 1
Slovakia	Tier 2
Slovenia	Tier 2
Albania	Tier 2
Bulgaria	Tier 2
Jamaica	Tier 2 Watch list
Macedonia	Tier 1
Moldova	Tier 2
Romania	Tier 2
Serbia and Montenegro	Tier 2 Watch list
Brazil	Tier 2
Ecuador	Tier 2 Watch list
Ukraine	Tier 2
Sri Lanka	Tier 2
Bangladesh	Tier 3
India	Tier 2 Watch list

* The U.S. Trafficking Victims Protection Act of 2000 reserves Tier 1 placement for countries that are in full compliance with minimum standards for combating trafficking. Tier 2 placement is for “countries whose governments do not fully comply with the Act’s minimum standards but are making significant efforts to bring themselves into compliance with those standards.” Tier 2 Watch List is for countries that do not fully comply with minimum standards but are making efforts to comply, but there are a significant numbers of victims or the numbers are significantly increasing, there is a failure to provide evidence that the country is increasing its efforts to combat trafficking or the country has promised to take significant steps in the future but has not yet done so to date. Tier 3 is reserved for countries that are not in compliance with minimum standards and are not making significant efforts to become so. These minimum standards require the country under review to: 1) prohibit trafficking and punish acts of trafficking; 2) prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault, for the knowing commission of trafficking in some of its most reprehensible forms (trafficking for sexual purposes, involving rape or kidnapping, or that causes death); 3) prescribe punishment that is sufficiently stringent to deter and that adequately reflects the offense’s heinous nature for the knowing commission of any act of trafficking; and 4) make serious and sustained efforts to eliminate trafficking.

The increasing criminalization of immigration offenses is also of concern. Under a new provision in asylum law that criminalizes document fraud, trafficking victims may have to defend themselves against criminal charges for having used false documents to enter the UK. This approach ignores the reality of the trafficking experience; traffickers often force their victims to use false documentation in order to avoid detection at ports of entry.⁹⁷ However, UK law does not provide a waiver that would exempt trafficked persons from document fraud charges. This provision may not only undermine the ability of trafficked persons to gain asylum, but may also inhibit their willingness to present themselves to authorities.⁹⁸

The increased emphasis on fast-tracked asylum procedures may also hamper efforts to detect cases of trafficking. This may be especially true when new arrivals are detained. As one expert put it: “It’s quite feasible that trafficked persons will be reluctant to tell their story, will get caught in detention, will be shipped home and then will be re-trafficked. To some extent, the government is creating a revolving door.”⁹⁹

Restrictions on appeals may also affect the ability of trafficked persons to access asylum protection. Approximately 75 percent of asylum applicants are initially denied in the UK. However, approximately 22 percent of those rejected are granted asylum on appeal, calling into question the quality of the initial decision-making.¹⁰⁰ In the context of gender persecution claims, this percentage increases significantly; over half are granted asylum or some form of discretionary relief on appeal.¹⁰¹ Limitations on appeals may result in legitimate refugee claims slipping through the cracks.

Despite some progress in the form of gender guidelines for adjudicators and some positive case law addressing gender-related persecution, the UK asylum system continues to exhibit bias against gender persecution claims, of which trafficking is an example. Many of the recent restrictions on asylum may exacerbate this bias and hinder the ability of applicants to have their experiences fully heard and considered.

For example, the government has reduced the amount of legal aid that it will fund for asylum applicants to five hours. As gender claims can be extraordinarily difficult for women to speak openly about and challenging to develop in terms of the criteria used to establish refugee status, these limitations particularly work against women claimants.¹⁰² There is also concern that conscientious legal practitioners will discontinue their representation of asylum seekers knowing that such limited time will not permit ethical representation; unscrupulous practitioners will then fill the void in order to exploit vulnerable asylum seekers financially.¹⁰³ Moreover, women raising gender persecution claims do not always receive their hearings before women

⁹⁷ Interview with the POPPY Project (September 22, 2004).

⁹⁸ Interview with the POPPY Project (September 22, 2004); Refugee Council, “Asylum and Immigration Act 2004: Main Changes and Issues of Concern” (August 2004).

⁹⁹ Interview with Refugee Arrivals Project (September 24, 2004).

¹⁰⁰ Interview with Asylum Aid (September 27, 2004); “From Flood to Trickle,” *The Economist* (September 4, 2004); Amnesty International UK, “Get It Right: How Home Office Decision Making Fails Refugees” (September 2004).

¹⁰¹ Refugee Women’s Resource Project, “Women Asylum Seekers in the UK: A Gender Perspective” (Asylum Aid, February 2003).

¹⁰² Interview with the POPPY Project (September 22, 2004).

¹⁰³ Interview with Asylum Aid (September 27, 2004).

adjudicators, a practice widely acknowledged as often critical to the women's willingness to articulate their experiences of abuse.¹⁰⁴

Similar challenges confront child asylum seekers raising age-related claims. Children also require significant time to articulate their claims. The consideration of age-related abuses in the context of asylum law is a newly emerging area that is quite complex. Children also benefit from hearings conducted by trained adjudicators with experience in interviewing children. It is estimated that some 10 percent of immigration officials in the UK are trained in how to question children.¹⁰⁵ This is a welcome new initiative, and an expansion of the program should be encouraged.

Because of the increasing restrictions on asylum, one advocate concluded, "Relying on asylum protection in a case of trafficking is very dangerous."¹⁰⁶ However, one asylum expert also underscored how important asylum may be in terms of protecting trafficked persons, noting, "The reasons they were vulnerable to trafficking in the first place are likely not to have changed."¹⁰⁷

The lack of an explicit form of protection for trafficked persons under UK law, combined with the barriers to asylum and humanitarian protection outlined above, means that trafficked persons remain vulnerable to deportation. Moreover, there have been reports of trafficked persons returned to their home countries before they even had a chance to apply for asylum or humanitarian protection. For example, there was an incident in Yorkshire in which the police apprehended 47 migrants who reportedly had been trafficked for prostitution that resulted in only one of the victims being referred for social services. The remaining 46 victims were immediately deported. Deportation is a particularly common outcome when the police and immigration officials cooperate in brothel raids.¹⁰⁸

In addition to possibly jeopardizing the safety of trafficked persons, repatriation may also be a futile and ineffective response to the problem of trafficking in general. Programs that work with trafficked persons report that clients who have been deported are often later re-trafficked to the UK. Of the 36 women served by one program, approximately 25 percent ended up being re-trafficked after the UK immigration authorities deported them.¹⁰⁹

Again, the tension between migration control efforts and anti-trafficking efforts is evident. As one expert put it: "Deportation numbers are important to the immigration authorities. No one is monitoring cases of re-trafficking to disprove these numbers. In the UK, the perception is that trafficking is an immigration crime rather than a crime against the person."¹¹⁰

¹⁰⁴ Interview with the POPPY Project (September 22, 2004). Some also pointed out, however, that female adjudicators are not necessarily more lenient on gender-related claims than their male counterparts..

¹⁰⁵ Interview with ECPAT UK (September 27, 2004).

¹⁰⁶ Interview with the POPPY Project (September 22, 2004).

¹⁰⁷ Interview with Asylum Aid (September 27, 2004).

¹⁰⁸ Interview with the POPPY Project (September 22, 2004).

¹⁰⁹ Interview with the POPPY Project (September 22, 2004).

¹¹⁰ Interview with the POPPY Project (September 22, 2004).

NGOs and UN agencies have advocated for stronger measures to protect trafficked persons. They have called for a “reflection period” of three to six months during which victims can begin the process of recovering from their experiences and start to think about their future, including making the decision as to whether they wish to cooperate in the prosecution of their traffickers and whether they wish to return to their home country or apply for asylum or humanitarian protection in the UK.¹¹¹ Some have also encouraged the creation of short-term or permanent residence options for trafficked persons who cannot safely return to their homelands.

Many believe, however, that the UK government is unlikely to support improved victim protection, whether through a more expansive use of existing asylum or corollary forms of protection or through the creation of some other program that would allow a victim to remain temporarily or permanently in the UK. As one person put it: “The government is unlikely to do anything that could be interpreted as attracting asylum seekers. It fears that people will scam the system. This problem permeates the system.”¹¹² A member of the House of Commons agreed: “What the government will *not* do is give a blanket agreement that if a trafficked woman is found that she won’t be removed from the country.”¹¹³ Even a study commissioned by the Home Office noted, “Trafficked women are viewed by the police as victims of crime and potential witnesses, whereas the immigration service views them as illegal entrants and potential deportees.”¹¹⁴

PHYSICAL PROTECTION

The UK national government, local authorities and NGOs have periodically supported the creation of safe houses to accommodate trafficked women and children who present themselves to or are identified by the authorities. The purpose of safe houses is typically not only to provide shelter to victims who likely have nowhere else to go, but also to provide protection from their traffickers and to offer support services, such as mental and physical health care and vocational training.

West Sussex House

The first such house, named Hera Makono I, was in West Sussex and housed only girls ages 16 and 17. It was not registered as a children’s home, so could not take children under 16. It was located in two semi-detached (semi-attached) houses in a suburban area and provided bed space for six girls. Girls in the facility were closely monitored, and escorted when they left the premises for school. One official familiar with the program cautioned not to view the safe house as a detention center, noting, “It was the staff that made the house safe, not the physical environment.”¹¹⁵

¹¹¹ Interview with UNICEF (September 21, 2004).

¹¹² Interview with West Sussex County Council (September 22, 2004).

¹¹³ Interview with Neil Gerrard, Member of Parliament (September 24, 2004).

¹¹⁴ Liz Kelly and Linda Regan, “Stopping Trafficking: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK,” Home Office (2000).

¹¹⁵ Interview with West Sussex County Council (September 22, 2004).

The West Sussex safe house was part of a joint operation, known as Operation Newbridge, among the immigration authorities, the police and West Sussex Social Services that focused on the increasing number of arriving asylum seekers in the late 1990s from countries in West Africa through Gatwick Airport, which is located in West Sussex and is the second largest airport of arrival in the UK. Authorities were concerned about the potential of high rates of trafficking, particularly in Sierra Leonean and Nigerian children.¹¹⁶

In the late 1990s, West Sussex Social Services detected a pattern of disappearances of young people from their care that especially affected unaccompanied children from West Africa. From 1996 through 2001, 66 such disappearances were documented. Most were girls, ranging in age from 12 to 17 years old. Typically, an adult claiming to be a girl's legal representative would meet her at the airport, and then the girl would later file for asylum.¹¹⁷ The children would remain in care for one day to several months before disappearing; authorities suspected that a trafficking route from West Africa to Gatwick, then to London, Belgium and finally northern Italy had developed. Once in Italy, authorities suspected that the girls were forced into sex work.¹¹⁸

Of the 66 children who went missing from West Sussex Social Services, five (7.5 percent) were from Liberia and 19 (28.8 percent) were from Sierra Leone.* During the time period in which these disappearances occurred, from 1995 through 2001, both countries were experiencing widespread conflict and refugee outflows. By the end of 1994, civil war had uprooted 1.8 million of 2.3 million Liberians. That same year, an estimated 960,000 Sierra Leoneans had fled their homes.**

* Carron Somerset, "What the Professionals Know: The Trafficking of Children Into, and Through, the UK for Sexual Purposes," ECPAT UK (November 21, 2001).

** U.S. Committee for Refugees, *World Refugee Survey* (1995).

The trafficking in children from Liberia and Sierra Leone to West Sussex was likely a result of the civil wars that plagued those countries for years. One official believed the connection in part was due to the fact that traffickers could force such children through the UK asylum system, because their claims were likely to be viewed as legitimate.¹¹⁹ Others believed that it was also possible that Nigerian children were being passed off as Liberian or Sierra Leonean because their traffickers thought it would be easier for the latter nationalities to obtain asylum.

The West Sussex program, however, was only open for three years before being shut down in 2003, despite the fact that it proved to have a significant impact on the number of children who

¹¹⁶ Kent County Council Social Services and West Sussex County Council Social Services, "Submission to the European Commission's Experts Group on Trafficking in Human Beings" (May 2004); Alice Meyers, "Learning from Experience: Helping Trafficked Children to be Safe," *InExile Magazine* (July 2003).

¹¹⁷ Interview with Neil Gerrard, Member of Parliament (September 24, 2004).

¹¹⁸ Mano Candappa, "Prevention and Fight Against Trafficking: Institutional Developments in Europe (UK Report)" (University of Warwick, 2003); Carron Somerset, "What the Professionals Know: The Trafficking of Children Into, and Through, the UK for Sexual Purposes," ECPAT UK (November 2001).

¹¹⁹ Interview with West Sussex County Council (September 22, 2004).

disappeared from care (in the last year of its operation, only two children went missing).¹²⁰ There were several reasons for its closure. First, trafficking in the region dropped dramatically in response to the improved law enforcement effort. The police and immigration authorities cooperated closely and as a result improved their identification of trafficking victims. This in turn hampered the ability of traffickers to operate undetected, so they shifted their illicit activities to other parts of the UK. It is also possible that the traffickers began to falsify the ages of their victims, alleging that they were over age 18, in order to avoid the children being taken into care.¹²¹

As a result, near the end of its existence the facility ran from half-full to near empty. As one official put it, “The program achieved what it set out to do.”¹²² However, concerns remain that the drop in trafficking may end up being temporary, as the traffickers may resume their activities because the authorities decreased their focus on trafficking. The official agreed: “We should have had an exit plan, but we didn’t...That oversight leaves us vulnerable to the whole trade returning because our eyes are no longer on the ball.”¹²³ Moreover, the success of the program may only have been regional, because traffickers have simply shifted their activities to other parts of the UK.¹²⁴ This raises the question whether a regional approach to trafficking could ever be effective.

The West Sussex safe house also closed because of its high cost and lack of cost-effectiveness.¹²⁵ Authorities considered integrating the care of trafficked children into existing foster care programs, reinforced with special training on trafficking, but local authorities resisted this effort due to the additional financial burden. One observer noted, “You can’t do this on the cheap.”¹²⁶ Even if local authorities were willing to absorb the costs, there are concerns about the desirability of placing teenagers in mainstream foster care, as well as about risks that foster families might face if caring for trafficked children.¹²⁷ Mainstream social service agencies may not be geared toward offering the special kind of support that trafficked children require, as they are used to addressing the safety of children experiencing family problems.¹²⁸

Finally, there were concerns that the traffickers had discovered the location of the West Sussex safe house, making it less safe for its young inhabitants.¹²⁹ Some of the children in fact

¹²⁰ Alice Meyers, “Learning from Experience: Helping Trafficked Children to be Safe,” *InExile Magazine* (July 2003).

¹²¹ ECPAT Europe Law Enforcement Group, “Joint East West Research on Trafficking in Children for Sexual Purposes in Europe: The Sending Countries” (2004).

¹²² Interview with West Sussex County Council (September 22, 2004).

¹²³ Interview with West Sussex County Council (September 22, 2004).

¹²⁴ “The Teenagers Traded for Slave Labour and Sex,” *Guardian Unlimited* (July 30, 2003); Alice Meyers, “Learning from Experience: Helping Trafficked Children to be Safe,” *InExile Magazine* (July 2003).

¹²⁵ Interview with West Sussex County Council (September 22, 2004); see also “Trafficking Victim Tells of Torment,” BBC News (July 30, 2003).

¹²⁶ Interview with Refugee Arrivals Project (September 24, 2004).

¹²⁷ Mano Candappa, “Prevention and Fight Against Trafficking: Institutional Developments in Europe (UK Report)” (University of Warwick, 2003).

¹²⁸ Interview with Refugee Council (September 23, 2004).

¹²⁹ Interview with Refugee Council (September 23, 2004); “Trafficking Victim Tells of Torment,” BBC News (July 30, 2003).

disappeared from the facility.¹³⁰ This underscores an ongoing dilemma in offering services to victims of trafficking. Concentrating them in one locale may make it easier for their traffickers to find them and retaliate against them. On the other hand, putting in place adequate security measures when victims are scattered among various sites is also challenging.

A private organization attempted to reopen the facility as an independently run operation. This new facility was known as Hera Makono II, and was open to referrals from across the UK. It closed after two months, however, due to a lack of referrals.¹³¹

The POPPY Project

In March 2003, a second safe house program was opened, this time for trafficked women over age 18. Known as the POPPY Project, this program is supported by funding from the Home Office rather than the local authorities. The POPPY Project can house up to 25 women at a time. In contrast to the safe house in West Sussex, women assisted by POPPY are not housed in one location but rather are scattered in various locations. At the time of this report, staff of the project reported that in recent months the program had consistently been running at maximum capacity.¹³²

The majority of referrals to the POPPY Project are from NGOs. One-third is from the police. The remaining referrals are from the immigration authorities or are self-referrals from the trafficked women themselves. To date, the POPPY Project has received more than 300 referrals and has supported 64 women. Five have received humanitarian protection, six have been granted indefinite leave to remain, and two are currently appealing their immigration status.¹³³

In addition to accommodation, women participating in the program receive mental and physical health services, education and skills training, and training about how to avoid retaliation from their traffickers. They also receive self-defense training, as well as cell phones that they can use in an emergency. The program also links the women to legal service providers who can advise and represent them.¹³⁴

Trafficked women must meet strict criteria to qualify for accommodation and services through the POPPY Project. One expert described the criteria as “unfathomable.”¹³⁵ First, the trafficking must have been for sex work, despite the fact that UK law has recently acknowledged other forms of trafficking as a crime.¹³⁶

Second, the prostitution must have taken place in the UK, thus precluding border arrivals from qualifying for help (unless it is a case of re-trafficking to the UK). There are concerns that this

¹³⁰ Statement of Beverley Hughes, “Official Report of Standing Committee B, Sexual Offences Bill,” Parliamentary Debates, House of Commons (September 16-October 14, 2003).

¹³¹ Interview with West Sussex County Council (September 22, 2004); “Closed Shop,” *The Guardian* (September 6, 2004).

¹³² Interview with the POPPY Project (September 22, 2004); Interview with UNICEF (September 21, 2004).

¹³³ E-mail from Louise Hinchliffe, Information Officer, The POPPY Project, May 5, 2005.

¹³⁴ Interview with the POPPY Project (September 22, 2004).

¹³⁵ Interview with Asylum Aid (September 27, 2004).

¹³⁶ Interview with the POPPY Project (September 22, 2004).

pre-condition to services is arbitrary and undermines protection of new arrivals. One expert observed, “It leaves you almost having to say to trafficked persons detected at the airport, ‘go work in the sex trade, and then come back to us so we can help you.’ ” She believed that the government placed this stipulation on assistance out of fear that the availability of services through the POPPY Project will act as a “pull factor” attracting more trafficking.¹³⁷

Finally, to qualify for services from the POPPY Project, a woman must have escaped from prostitution within the last 30 days. The woman is given four weeks in which to decide whether she will cooperate with the authorities in their effort to prosecute the traffickers involved. Such cooperation would include testifying in court, making statements or other steps that could lead to the prosecution of the traffickers if the authorities decide to pursue charges. Services are then conditioned on her willingness to cooperate with the authorities.

While clearly beneficial to the women who qualify for services, the program is also limited in its effectiveness simply by nature of its small size. It can only serve 25 women at any given time and has consistently run at near or full capacity. As one Member of Parliament put it during a debate on the Sexual Offences bill: “...[I]n the face of the scale of the problem it is a drop in the ocean. If we were writing a school report, we would say, ‘Could do better.’ ”¹³⁸

The UK government’s focus on migration control and prosecution of the traffickers—as opposed to protection of the women affected—is also underscored by the fact that it initially attempted to place an additional criterion for admission to the program that would have forbidden women assisted by the POPPY Project from applying for asylum. It was only when it was pointed out to the government that this was a clear breach of the international obligations of the UK under the Refugee Convention that it backed down from imposing this restriction.

Moreover, making cooperation with the authorities a precondition to receiving protection and assistance may undermine the effectiveness of law enforcement efforts to combat trafficking. As one caseworker pointed out: “When women feel coerced by the police, it affects the quality of their testimony. When they know that they will be repatriated, it’s not good for the court process either.”¹³⁹ She elaborated: “One woman we worked with complained that ‘they don’t believe me when I apply for asylum, but they do when I present evidence against the traffickers. It’s all about their priorities, not my safety.’ ”¹⁴⁰ She also noted that some women do not present themselves to the authorities at all, because they are aware that the police and immigration authorities often work together, and they fear deportation.

With the closure of the West Sussex safe house, and the restrictions placed on the POPPY Project, at the moment there are absolutely no services for children and only limited services for women.¹⁴¹ At the time of going to print, the Home Office had extended funding for the POPPY Project for a further six months.¹⁴²

¹³⁷ Interview with Refugee Arrivals Project (September 24, 2004).

¹³⁸ Statement by the Honorable Sandra Gidley, Official Report of Standing Committee B, “Sexual Offences Bill,” House of Commons (September 16-October 14, 2003).

¹³⁹ Interview with the POPPY Project (September 21, 2004).

¹⁴⁰ Interview with the POPPY Project (September 21, 2004).

¹⁴¹ Interview with ECPAT UK (September 27, 2004).

¹⁴² E-mail from Louise Hinchcliffe, Information Officer, the POPPY Project (May 5, 2005).

LAW ENFORCEMENT EFFORTS TO COMBAT TRAFFICKING

While concerns exist that the UK has not gone far enough in terms of offering protection to trafficked persons, authorities have dedicated significant time and resources toward law enforcement efforts to deter, detect and combat trafficking into the country. One expert described the situation, saying: “There is no real regard for the protection of trafficked persons. What does exist is real regard for the tough prosecution of traffickers.”¹⁴³

Operation Paladin Child

The London Metropolitan Police, through its Child Abuse Investigation Command, launched an innovative pilot project to try to identify child migrants at risk who arrived at Heathrow Airport. Done in partnership with the United Kingdom Immigration Service, the Association of Directors of Social Services, the National Society for the Prevention of Cruelty to Children, the Hillingdon Child Abuse Investigation Team and Reflex (a multi-agency task force that targets organized immigration crime), this project was known as Operation Paladin Child. Under the program, law enforcement officials were posted at the airport to collect information about children who arrive unaccompanied in the UK.

The project was started in response to the growing number of unaccompanied children who began arriving at Heathrow Airport. Prior to the project, there was no police presence at the airport that specialized in child protection and could identify children at risk entering the UK.

It is critical to note that Operation Paladin Child did not focus exclusively on trafficked children, but rather sought to identify unaccompanied children at risk more broadly.¹⁴⁴ In fact, the methodology did not attempt to measure at all whether trafficking had occurred, and instead depended on the local social service agencies to follow up on individual cases. Criteria used to determine at-risk cases included whether: 1) the address provided by the child was already known to Paladin; 2) the address of the sponsor/greeter was already known; 3) the child was under age 16 and planned to stay in the UK for more than 28 days; 4) no date of return was provided; 5) the greeter was already known to the immigration service; or 6) other concerns were identified.¹⁴⁵

The program identified 1,738 children who arrived at the airport alone over a three-month period. Approximately 30 percent of those children (551) were classified as at risk. Of those categorized at risk, 28 were unaccounted for, one-half of whom were eventually found (having left the country or subsequently resurfaced to apply for asylum). The remaining 14 children were still missing and deemed untraceable. Seven of the children who disappeared were teenage girls from Africa, five from West Africa.¹⁴⁶

¹⁴³ Interview with Refugee Council (September 23, 2004).

¹⁴⁴ Interview with ECPAT UK (September 27, 2004).

¹⁴⁵ Akullo, M and Spindler, P, “Paladin Child: A Partnership Study of Child Migration to the UK Via London Heathrow” (2004).

¹⁴⁶ Akullo, M and Spindler, P, “Paladin Child: A Partnership Study of Child Migration to the UK Via London Heathrow” (2004).

Some of the children who were eventually found had been trafficked and were living in situations of indentured servitude. In one case the police reported that they found a young girl working from 6:00 a.m. until midnight every day, caring for the children of the family with whom she lived and cleaning the house. She was not paid and was frequently beaten. She eventually escaped her captors.¹⁴⁷ Operation Paladin child protection officers were called to assist the Child Abuse Investigation team involved in this case. Their assistance included searching the premises and offering advice and guidance on child trafficking.¹⁴⁸

With regard to the 12 children who were deemed untraceable under the program, authorities suspect that their absence might have been because they were transiting through the UK and ultimately ended up elsewhere or because the authorities were provided the wrong address for the child. Alternatively, they may have also been trafficked and forced underground in the UK.

A summary of the operation provided by the agencies involved concluded that it had not identified any widespread exploitation or significant trafficking of migrant children. It did conclude, however, that the study raised a significant enough concern about the number of unaccompanied children coming through Heathrow Airport to justify the creation of a multi-agency response to child migration.¹⁴⁹

Moreover, Operation Paladin Child suffered from structural weaknesses that limited its ability to assess the true scope of trafficking. First, it focused on only one port of entry. Unless expanded nationwide, this failure will likely undermine the program's effectiveness, as traffickers will become aware of which ports are more closely monitored and simply seek access into the country through another border point. A policy-maker observed: "Trafficking is like an amoeba. You crack one cell, and they just move elsewhere. A national system would be more effective at deterring trafficking, but the national government is unlikely to want to pay for such services."¹⁵⁰

Second, the study relied solely on the handwritten completed forms received from the UK Immigration Service. The handwriting was sometimes illegible and hence names and addresses may have been wrongly recorded. Operation Paladin Child attempted to measure the flow of unaccompanied minors from their country of embarkation to the UK via Heathrow Airport. To provide an accurate flow figure for a specific year, measurements should be continuous for at least a year. Collecting data from Heathrow only and for a short period only meant that there were considerable gaps in the data available.¹⁵¹

Third, it is unclear how thoroughly local social service providers followed up on the 551 cases of children identified as being at risk. Social services in the UK have sometimes come under attack for being under-funded, under-staffed, ineffective and, at times, careless.¹⁵² They also have been

¹⁴⁷ Interview with London Metropolitan Police (September 22, 2004).

¹⁴⁸ Memo – London Metropolitan Police (via email – March 8, 2005)

¹⁴⁹ Akullo, M and Spindler, P, "Paladin Child: A Partnership Study of Child Migration to the UK Via London Heathrow" (2004).

¹⁵⁰ Interview with Baroness Anelay, House of Lords (September 24, 2004).

¹⁵¹ Memo – London Metropolitan Police (via email – March 2005)

¹⁵² See Lord Laming, "The Victoria Climbié Inquiry" (2003).

criticized for lacking training, guidance or expertise on the protection of trafficked children.¹⁵³ One social service official observed: “What concerns me is that...children were referred to social services but there was little follow-up. I wonder how many times the social worker knocked on the door and no one answered, so they just ticked off the box. There is no quality check on the follow-up services.”¹⁵⁴

Fourth, those children arriving in the UK via another EU member state were not checked. Given that traffickers often rely on fraudulent documents to facilitate the travel of victims, this oversight also opened the door to traffickers circumventing monitoring and detection simply by providing EU documents to the children in question.¹⁵⁵

Even if EU passport holders were checked, however, authorities were skeptical that they would be able to identify effectively children who had been trafficked in that pool of entrants, as one EU passport holder enters the UK every ten seconds. Also, there would be significant public opposition to hindering the free travel of EU citizens. As a member of the House of Lords put it: “There is tremendous political sensitivity when it comes to EU passport holders. You’re challenging your friends and neighbors.”¹⁵⁶

Fifth, the criteria set for completion of the Paladin form included children who were non-EU passport holders; under 18 years of age; traveling without a parent, legal guardian or older sibling; and not part of a recognized school, church or sporting group visit. While anyone traveling with a minor who fit these criteria was interviewed by an immigration officer,¹⁵⁷ children who were accompanied by an adult were not screened and stated family relationships were not questioned. Traffickers frequently will pose as adult relatives in order to avoid detection at a port of entry.¹⁵⁸ One agency that maintains an office at Heathrow Airport to assist arriving asylum seekers noted: “It is difficult to ascertain whether family units are *bona fide*. That will always be a big loophole when trying to identify trafficked children.”¹⁵⁹

Sixth, the limited funding dedicated to the project also was of concern to those officers involved in its implementation. Authorities described it as resource intensive.¹⁶⁰

It should also be noted that Operation Paladin Child did not attempt to identify adult trafficking victims, including women. One expert observed: “When it comes to women, it is infinitely worse to detect them at a port of arrival than it is children. The women arrive with their traffickers, and the chances of making the link to trafficking are limited.”¹⁶¹ Law enforcement officials involved

¹⁵³ Carron Somerset, “Cause for Concern? London Social services and Child Trafficking” (ECPAT UK, May 2004); David Batty, “Trafficked Children ‘Left at Risk’ by Social Services and Police,” *Guardian Unlimited* (May 17, 2004).

¹⁵⁴ Interview with West Sussex County Council (September 22, 2004).

¹⁵⁵ Interview with UNICEF (September 21, 2004).

¹⁵⁶ Interview with Baroness Anelay, House of Lords (September 24, 2004).

¹⁵⁷ Memo – London Metropolitan Police (via email – March 2005)

¹⁵⁸ Interview with London Metropolitan Police (September 22, 2004).

¹⁵⁹ Interview with Refugee Arrivals Project (September 24, 2004).

¹⁶⁰ Interview with London Metropolitan Police (September 22, 2004).

¹⁶¹ Interview with Refugee Arrivals Project (September 24, 2004).

in Operation Paladin Child also believed it would be very difficult to convince the immigration authorities to extend the program to women.

Operation Paladin Child was completed in November 2003. However, authorities were considering ways in which the lessons learned from the project could be applied. The Metropolitan Police, for example, placed an additional officer at Lunar House, the office where asylum seekers must present themselves to apply for asylum, with the rationale that Lunar House could serve as an effective point of contact with trafficked children.

Approximately 100 children pass through Lunar House each week, three to five of whom are referred to the police each day because immigration authorities are concerned about their welfare.¹⁶² Authorities have found that many of these children fit the trafficking profile, and have been threatened or coached on what to tell the immigration authorities. If the police believe that a child is at risk, they have the power to take them into custody and place them under police protection or refer them to social services.¹⁶³

Authorities were also pursuing the necessary funding to maintain a special unit dedicated to following up on the operation and to continuing to monitor the arrival of unaccompanied children at the airport.¹⁶⁴ According to the London Metropolitan Police, the UK Immigration Service at Heathrow Airport now has a dedicated minors team of 12 instead of the original two immigration officers.¹⁶⁵

In November 2004, the Home Office announced that it had joined forces with local authorities to launch a National Register for Unaccompanied Asylum Seeking Children. Starting in 2005, this electronic database will collect information on children who arrive alone at ports of entry before they are referred to social services.¹⁶⁶

Inter-agency Collaboration

At Heathrow Airport, there has been some effort to facilitate communication among various agencies in order to share information and promote dialogue on migration issues, including trafficked persons who arrive at the airport. For the past four years the Refugee Arrivals Project has convened quarterly meetings among immigration officers, the social services department, local police authorities and NGOs that have a presence at the airport.¹⁶⁷

Under Operation Maxim, established in March 2003, Scotland Yard cooperates with the immigration service and passport office to identify emerging criminal trends in the immigration context, including those involving human trafficking. Thirty detectives are assigned to the

¹⁶² Interview with London Metropolitan Police (September 22, 2004).

¹⁶³ Interview with London Metropolitan Police (September 22, 2004).

¹⁶⁴ Interview with London Metropolitan Police (September 22, 2004).

¹⁶⁵ Memo – London Metropolitan Police (via email – March 2005)

¹⁶⁶ “Child Refugee Database Unveiled,” BBC News (November 23, 2004).

¹⁶⁷ Interview with Refugee Arrivals Project (September 24, 2004).

operation. They attempt to work at the grassroots level, particularly with immigrant communities themselves. They also liaise with overseas law enforcement agencies.¹⁶⁸

The Counter Trafficking Link Group, which brings together the police, immigration service, NGOs and relevant government departments, has been meeting for more than four years. The group coordinates work against trafficking for both sexual and labor exploitation.¹⁶⁹

The UK is also actively involved in promoting regional and international efforts to coordinate anti-trafficking efforts across borders. Through a government task force led by the National Crime Squad that is known as Reflex, the government has worked with other countries, such as Romania, the Netherlands and the Czech Republic, to address organized immigration crime, including trafficking.¹⁷⁰ The Home Office has stated, “The Government believes that working in partnership with countries which are source and transit countries for trafficking is essential.”¹⁷¹

Prosecution of Traffickers

The prosecution of traffickers who are apprehended by the authorities has brought mixed results. Prior to the enactment of laws that explicitly criminalize trafficking, prosecutors were forced to rely on charges for other criminal offenses. Anti-Slavery International has reported that between 1999 and 2002, the Metropolitan Police of London investigated 18 cases involving 44 traffickers. They were charged under the Sexual Offenses Act 1956 for offenses related to prostitution, but only 20 of the traffickers served time and only five of those served more than two years.¹⁷²

In 2003, a trafficker, who had been employed by the Home Office as an interpreter and had trafficked seven women, was convicted of rape, kidnapping and solicitation of prostitution. He initially was sentenced to prison for 10 years on the basis of 12 charges, but on appeal this sentence was increased to 23 years. In another case, however, the trafficker only received a three-month sentence on a charge of common assault, despite the fact that there was strong evidence of trafficking.

In December 2004, however, a decision under a new law that took effect in May 2004, the Sexual Offenses Act 2003, resulted in the first conviction explicitly for the crime of human trafficking. The case involved two Albanian traffickers who had promised two Lithuanian women work as waitresses but instead took away the women’s passports and forced them into prostitution to pay off the cost of their flights to the UK. One trafficker received a sentence of 18 years’ imprisonment and the other a sentence of nine years.¹⁷³

¹⁶⁸ Rosie Cowan, “Police Hit South African Visa Scam,” *The Guardian* (June 17, 2004).

¹⁶⁹ Email from Mike Kaye, Anti-Slavery International (February 22, 2005).

¹⁷⁰ Mano Candappa, “Prevention and Fight Against Trafficking: Institutional Developments in Europe (UK Report),” University of Warwick (2003).

¹⁷¹ Letter to the Women’s Commission for Refugee Women and Children from Ms. Sam Evans, Head of Provision for Victims of Sexual Offending and Human Trafficking, Home Office (September 6, 2004).

¹⁷² Mike Kaye, “The Migration Trafficking Nexus,” Anti-Slavery International, London (2003), p. 19-20.

¹⁷³ Anti-Slavery International, “Trafficking Conviction a First for UK Law” (January 7, 2005), available at www.antislavery.org.

In another recent case, two Pakistani traffickers were convicted of trafficking three Afghan children. One of the children was found abandoned at Heathrow Airport.¹⁷⁴

Advocates, however, report that laws that lead to the prosecution of traffickers are deficient in their protection of trafficked persons who cooperate in such proceedings. For example, there is no guarantee of confidentiality when a victim presents testimony against the trafficker in the courtroom. Screens to block the witness's visibility must be requested before the trial starts, and have been denied in some cases.

Just as victim protection efforts are influenced by concerns about migration, law enforcement efforts such as Operation Paladin Child are also negatively affected. Efforts by the domestic law enforcement agencies to combat trafficking are sometimes hindered by efforts by the Home Office to treat the issue as primarily a migration problem and to deport the victims immediately after they are detected, thus disrupting the ability of the law enforcement agency to pursue prosecution.¹⁷⁵ As one expert said, "The police see trafficked persons as victims. Immigration just sees them as illegal entrants."¹⁷⁶

However, deportation often inadequately reflects the needs and rights of the woman or child in question. A local Nigerian NGO that has tried to assist victims repatriated from the UK and other EU countries back to Nigeria reported: "The girls who have been returned have been battered and abused. They feel wasted, used and dehumanized after being returned. Some are hostile because they come back with nothing and feel cheated. They are very sad children who don't have confidence. They fear losing their families, because the traffickers have told them that they will retaliate against their family members. As a result, some want to go back to the country that they were trafficked to." She concluded: "Destination countries should make provision for the victims. It's their responsibility to look after them. The women and children should be treated like victims, not criminals. I believe destination countries have a lot more to do."¹⁷⁷

Some advocates have also pointed out that the demand side for trafficking is inadequately addressed in destination countries such as the UK. They recommend that the UK government put greater emphasis on clamping down on those who exploit sources of cheap labor and cheap sex. As one UNICEF representative put it, "Those who take advantage of trafficking victims view them as servants instead of slaves."¹⁷⁸

PUBLIC AWARENESS

The UK government has supported international efforts to raise awareness among communities susceptible to trafficking about the dangers of trafficking, in order to prevent the problem from

¹⁷⁴ "First Conviction for Child Trafficking," *Children Now* (September 22-28, 2004).

¹⁷⁵ Interview with Neil Gerrard, Member of Parliament (September 24, 2004).

¹⁷⁶ Interview with Asylum Aid (September 27, 2004).

¹⁷⁷ Interview with Her Excellency Eki Igbiniedion, Edo Underprivileged Children's Scholarship Trust Fund (Save Our Children) (September 21, 2004).

¹⁷⁸ Interview with UNICEF (September 21, 2004).

occurring. UNICEF UK's End Child Exploitation Campaign provided funding for transit centers in Nigeria for victims of trafficking.¹⁷⁹

The Nigerian NGO Edo Underprivileged Children's Scholarship Trust Fund (Save Our Children) is reaching out to rural communities with high levels of trafficking to protect children from trafficking through public education campaigns and by supporting girls' education and life skills training. This work is premised on the belief that local communities that understand the dangers of trafficking can act as the first line of defense to prevent trafficking and that girls' education is the best means to empower them and prevent their exploitation and abuse. Edo Underprivileged Children's Scholarship Trust Fund (Save Our Children) also advocated for successful passage of domestic laws in Nigeria to criminalize trafficking, as it estimates that 95 percent of the traffickers who prey on Nigerian women and children are Nigerian themselves.*

* Interview with Her Excellency Eki Igbinedion, Edo Underprivileged Children's Scholarship Trust Fund (Save Our Children) (September 21, 2004).

The Home Office also reported that it has funded anti-trafficking initiatives in the Balkans. The Department for International Development (DFID) funded Anti-Slavery International to carry out a project in West Africa to combat child trafficking in the region. Finally, through the International Labor Organization, the Home Office has supported efforts to combat child labor, including that connected to trafficking.¹⁸⁰

The Crime Reduction Unit of the Home Office has also developed a "tool kit" for practitioners in the UK. One social service agency spoke highly of this effort, describing the tool kit as very helpful and comprehensive.¹⁸¹ Available on the Internet, the tool kit aims to increase awareness among the law enforcement and social services agencies responsible for tackling trafficking in their local communities. It includes an overview of trafficking, both internationally and in the UK; a synopsis of the laws pertaining to trafficking; recommendations on how to work across agencies to address trafficking; and links to reports and resources to help guide and educate such agencies.¹⁸²

¹⁷⁹ Interview with UNICEF (September 21, 2004).

¹⁸⁰ Letter to the Women's Commission for Refugee Women and Children from Ms. Sam Evans, Head of Provision for Victims of Sexual Offending and Human Trafficking, Home Office (September 6, 2004).

¹⁸¹ Interview with Refugee Arrivals Project (September 24, 2004).

¹⁸² "Crime Reduction Toolkit: Trafficking of People," available at www.crimereduction.gov.uk.

CONCLUSIONS AND RECOMMENDATIONS

VICTIM PROTECTION

While the UK has made notable efforts to address trafficking, to date it has failed to take adequate steps to ensure the protection of trafficked persons. It has tended to address trafficking as an issue of migration control rather than as a human rights problem. This has led to the deportation of trafficking victims, especially women, without adequate consideration of their safety and well-being. The threat of deportation also has jeopardized the effective prosecution of traffickers, as it affects the quality and availability of testimony from victims.

- The effort to combat trafficking in the UK, as well as internationally, should be centered on the rights and protection of trafficked persons. The framework to approach trafficking could usefully reflect that used to protect refugees, which defines three possible durable solutions for those who have faced human rights violations: voluntary return that respects the safety and dignity of the person; local integration in the host country; or third country resettlement.

The UK has placed restrictions on the asylum system that threaten the ability of refugees to access protection. These measures have too often pandered to the anti-asylum sentiments in the British public without adequately considering the obligation of the UK under international, regional and domestic law to protect those with a well-founded fear of persecution. Ironically, such measures have at times been justified as necessary to prevent trafficking, when, in fact, they jeopardize the protection of trafficked persons who would be eligible for refugee status exactly because they have been trafficked.

- Trafficking should not be viewed as an issue of migration control but rather as a human rights problem, and the prevention of trafficking should never be used as a justification for imposing restrictions on asylum.
- A robust asylum system grounded in due process must be maintained to offer protection to trafficked persons and others found to have a well-founded fear of persecution in their home countries. Claims based on trafficking should be carefully considered within the construct of the refugee definition.

The designation of countries as “safe” for purposes of asylum disregards the reality of women, children and trafficked persons generally. Many countries that may not exhibit significant levels of political, religious or ethnic persecution may very well still exhibit patterns of discriminatory or harmful policies and practices against women and children, which, in turn, may lead to trafficking.

- If the UK persists in the development of a safe country list, it must at a minimum allow women and children from such countries full consideration of claims based on gender or age persecution.

- Trafficked persons should never be penalized for the use of false documents when their traffickers used force, coercion or deception to facilitate the person's travel, including procuring false documents to facilitate their victims' travel. Instead, the full force of the law should be used to penalize the traffickers for such fraud.
- Trafficked persons should not be detained either for reasons of their illegal presence or in order to protect them from their traffickers.

Not all trafficking claims will meet the criteria for refugee protection or other forms of discretionary relief from deportation allowed under UK law. However, UK law currently does not provide any relief from deportation specifically for trafficked persons whose safety would be at risk if returned to their home lands.

- No trafficked person should be returned to her home country without full consideration of whether such return presents a risk to her safety and well-being.
- It is essential that the UK develop other legal mechanisms explicitly for the protection of trafficked persons who cannot return safely to their home countries. This includes the creation of short- and long-term residence permits.
- A short-term reflection period of 3-6 months should be provided to trafficked persons in order to give them time to recover from the trauma of their experience and to decide what they wish to do next, including the decision to cooperate with the authorities and the decision to pursue asylum or other forms of protection in the UK.
- Protection should not be contingent on cooperation with law enforcement officials.

Trafficking presents special challenges to destination countries such as the UK because traffickers may attempt to re-victimize trafficked persons even after they have presented themselves to the authorities or other sources of protection. Safe house programs have proved largely successful in offering protection to trafficked persons and assisting them with accommodation, health care, counseling, education and life skills training, and legal aid. However, these efforts have been too localized in their scope, too restrictive in their criteria for admission and too under-funded to have a systemic and meaningful impact on the effort to address trafficking.

- Protection and assistance efforts should not fall solely to local authorities to create and maintain. Central funding should be provided to coordinate such services nationally throughout the UK. It may be, as some agencies have suggested, that an NGO that specializes in the protection of trafficked persons would be best suited to offer such services, as victims may be reluctant to present themselves to a program operated by the government.
- Safe house programs should be developed to address the protection and assistance needs of all trafficked persons, regardless of age and gender. They should not be limited to serving only victims of sex trafficking.

- The best interests of trafficked children must be considered paramount in all actions taken to address their circumstances. This includes the provision of care arrangements, food, education, mental and physical health care, and legal assistance. Children should never be forced to participate in legal proceedings against their traffickers, and their care should never be contingent on such cooperation.

Given its stature in the international and European context, the UK can play an influential role in the development of standards for the protection of trafficked persons. The European Union has proactively addressed the problem of trafficking, but has failed to fully address the rights of trafficked persons in these efforts.

- The UK should sign on to existing EU directives and should demonstrate leadership within the body in promoting standards for the protection of trafficked persons, especially women and children.

LAW ENFORCEMENT

In recent years, UK law has advanced significantly in its consideration of trafficking as a crime against the person. It has expanded beyond its initial focus on sex trafficking to encompass all forms of trafficking and has increased the penalties to which convicted traffickers will be subjected. However, it remains to be seen whether law enforcement authorities will dedicate sufficient resources to enforce such laws and whether concerns about migration control will conflict with efforts to address trafficking in the criminal context.

- While traffickers sometimes exploit asylum laws in order to keep their victims in the UK while the proceeding is pending, the solution to this problem is not to create obstacles that prevent access to the asylum system. Rather, the government must make prosecution of the trafficker the priority while keeping open avenues to relief from deportation for those who cannot return safely to their homelands.
- Training of law enforcement officials must be supported to enhance their capabilities to identify trafficked persons and prosecute traffickers.
- Immigration officers must be trained to better identify trafficked women and children arriving at ports of entry.
- The prosecution of traffickers cannot be at the expense of the protection of victims. The UK government must ensure that victims are not put at risk during criminal proceedings. Alternatives to the victims having to give testimony should be explored, and, at a minimum, court procedures that protect the identity of witnesses must be implemented.
- Assets seized from traffickers should be used to support victim protection and assistance programs.

- The UK government must dedicate the resources necessary for the effective fight against trafficking.

The UK has tested innovative ways to identify children who arrive alone in the UK and who may be at risk. However, such efforts were limited in their impact because they focused on only one port of entry, exempted children arriving with EU documents from screening and did not encompass children arriving with purported family members.

- A database similar to the National Register for Unaccompanied Children should be extended to include non-asylum-seeking children.
- Operation Paladin may offer a useful model for a multi-sectoral approach to identifying arriving children who are at risk. Multi-agency teams that are staffed by UK Immigration Service, the police and social services should be established at all UK passenger ports to identify children at risk. They should be combined with better training of social service agencies to follow up on cases identified as at risk.
- Caution must also be taken that such efforts are not used to justify the interception of children who may be seeking to enter the UK to access asylum.
- Monitoring of children arriving with relatives should be implemented to assess the validity of family relationships and to ensure that traffickers are not posing as legitimate caregivers.
- Children carrying EU documents who appear to present the characteristics typical of a trafficked child must also be screened.
- Such screening should be implemented at all ports of entry.
- Such models should be extended to identify trafficked women as well.

Anti-trafficking efforts, including those in the UK, tend to focus on the supply side. Those who take advantage of this illicit source of labor also are part of the problem, and must be held fully accountable for their actions.

- The UK government should make a greater effort to crack down on those who would exploit trafficked women and children.

PUBLIC AWARENESS AND PREVENTION EFFORTS

Poverty is commonly considered the primary root cause of trafficking. However, the origins of trafficking are complex and cannot be adequately addressed by the international community unless they are also understood to encompass armed conflict, human rights

problems and the systemic discrimination against women and children that is prevalent around the world.

- The effort to combat trafficking must consider the root causes of trafficking. In addition to ensuring that protection is offered in appropriate cases, the international community must take steps to ensure that traffickers do not prey on displaced populations, especially women and children, who are vulnerable to abuses when forced to flee their home communities.

Immigration authorities, law enforcement agencies, social service providers and NGOs are all affected by trafficking and have a critical role to play in combating it. There have been efforts in the UK to coordinate the activities of such agencies, but none have been engaged on a national level that address all forms of trafficking and all affected communities.

- It is essential that agencies involved in all sectors that may have contact with traffickers or trafficked persons develop effective information sharing and join in a national strategy to combat trafficking in the UK. Such strategies should reach across local, national, regional and international borders. Multi-sectoral working groups can work together to ensure identification of those at risk, share intelligence and information, collect data, raise public awareness, conduct joint training and develop integrated responses to trafficking.
- Law enforcement and protection and assistance efforts should be integrated to the maximum extent possible with the aim of ensuring victim protection.
- Research and information gathering efforts must be supported and sustained to monitor as much as possible the extent and nature of trafficking and to identify effective prevention and response mechanisms.
- The international influence of the UK should be used to promote anti-trafficking efforts globally, including systematic efforts to combat the root causes of trafficking. The government should take advantage of its presidency of the EU during the second half of 2005 and of the G8 Summit in Gleneagles in July 2005 to exert influence on these issues.
- Solutions must be national in scope but closely linked to the communities affected.
- The Home Office should commission an assessment of trafficking for purposes other than prostitution as it did in 2000 with regard to trafficking for prostitution. This study should address trafficking in all populations, not just women.



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