



**IAS**

# **ANTI-TRAFFICKING TOOLKIT**

IAS Anti-Trafficking Toolkit by the Research and Information Unit and Tribunal Unit, Immigration Advisory Service

E: [research@iasuk.org](mailto:research@iasuk.org); [tribunalunit@iasuk.org](mailto:tribunalunit@iasuk.org)

W: [www.iasuk.org](http://www.iasuk.org)



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# IAS ANTI-TRAFFICKING TOOLKIT

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## **Abbreviations and acronyms**

**EU Convention-** Council of Europe Convention on Action against Trafficking in Human Beings

**The Migrants Protocol** - The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing United Nations Convention against Transnational Organized Crime

**IOM** - International Organisation for Migration

**UASC** – Unaccompanied Asylum seeking Children

**UNHCR** - Office of the United Nations High Commissioner for Refugees

**UNODC** - United Nations Office on Drugs and Crime

**UNTOC** – UN Trafficking in Persons Protocol

**UKHTC** – UK Human Trafficking Centre



## 1. Aim of toolkit

The IAS anti-trafficking toolkit is designed to assist IAS caseworkers and external organizations/individuals by increasing their awareness of trafficking in its different forms and by helping achieve an understanding of trafficking in persons to the United Kingdom. Whether in the asylum context or otherwise, awareness and knowledge of trafficking are key in the formulation of an effective response to the issue. Hence, the toolkit aims to equip its users with the relevant knowledge and awareness by providing guidance on the following issues:

- Identification procedures: aiming to ensure that victims of trafficking are identified;
- Referral procedures: signposting the resources that are available to assist victims of trafficking, including specialised service providers;
- Case construction: providing guidance on how to build an effective asylum case for a victim of trafficking; and
- Legal framework: providing an overview of the domestic and international legal framework for trafficking-related asylum cases.

The Toolkit is structured in such a way that the different sections may be consulted independently of each other by individuals who have an interest in a particular aspect of trafficking.

### Core principles underpinning the IAS Anti-Trafficking toolkit

- **Victim-centered rights-based approach:** the emphasis is on the rights of the victim and the need to find a holistic solution to the victim's trafficking-related problems.
- **Human trafficking as a human rights problem:** viewing human trafficking in terms of human rights violations as opposed to an "immigration control" issue.
- **Trafficking as a form of modern day slavery:** recognising trafficking as a form of modern day slavery which cuts across various industries, including but not limited to, the sex industry, domestic labour and cheap factory labour.



## **2. Victim-centered guidelines for practitioners dealing with victims of trafficking or suspected victims of trafficking**

### **Attitude**

1. View trafficking as a violation of the human rights of the victim of trafficking.
2. Protection of the rights of the trafficking victim should be at the heart of all forms of assistance extended to the victim.
3. Take a holistic and integrated approach to issues presented by trafficking cases on a case by case basis. In particular, consider not only the legal elements presented by the case but also the individual's need to be referred to a specialised agency for assistance with counseling, housing issues and for other support.
4. Be open and honest with clients at all times particularly in relation to any risks and/or consequences associated with undertaking a particular course of action.
5. Be mindful of the fact that the trafficking aspect of an asylum case is sometimes not immediately obvious. This is further compounded by the fact that trafficking can manifest itself in different forms such as sex trafficking or trafficking for labour exploitation. Trafficking in any form is a human rights violation that affects men, women and children and it should therefore be dealt with as a human rights violation.

### **Going through the asylum process**

6. Explain the different stages of the asylum process. Often individuals are unaware of the process and unsure as to the method of application and/or what level of information and cooperation is expected of them.<sup>1</sup> Moreover, victims of trafficking may find dealing with different agencies such as support agencies, the immigration service and law enforcement authorities confusing and disorienting.<sup>2</sup>
7. Be patient and exercise care when interviewing and generally dealing with victims of trafficking. In particular, “[w]omen who have been sexually assaulted may suffer trauma. The symptoms of this include persistent fear, a loss of self-confidence and self esteem, difficulty in concentration, an attitude of self-blame, a pervasive loss of control and memory loss or distortion.”<sup>3</sup> Further useful guidance relating to effects of sexual violence on individuals (particularly in relation to difficulties they experience in disclosing their experiences of sexual violence) may be found in a report published by the British Journal of Psychiatry in June 2007.<sup>4</sup>
8. If you suspect that a client has been trafficked but are unsure, do not hesitate to revert to basic definitions of trafficking as set out in the IAS Anti-Trafficking

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<sup>1</sup> RWRP and Eaves' Poppy Project, Hope Betrayed, 02/2006

<sup>2</sup> RWRP and Eaves' Poppy Project, Hope Betrayed, 02/2006

<sup>3</sup> Home Office, Asylum Policy Instruction: Gender Issues in the Asylum Claim, 10/2006 para 9

<sup>4</sup> The report can be accessed at: <http://www.medilexicon.com/medicalnews.php?newsid=75832>



Toolkit and the associated guidance which make identification of trafficking a more approachable process.

9. Ensure that the client is made fully aware of the support mechanisms/ services available to assist them with various issues such as dealing with the criminal justice system, and tracing family abroad. If in doubt, do not hesitate to seek assistance either from your supervisor or specialised agencies such as the Poppy Project<sup>5</sup>, the Medical Foundation<sup>6</sup>, the Helen Bamber Foundation<sup>7</sup> and the UK Human Trafficking Centre<sup>8</sup> where advice is available on a confidential and no-names basis.

### Case preparation

10. As trafficking cases often present credibility issues in relation to corroboration of various aspects of an individual's claim, case preparation is key. Preparation should be extremely thorough and include relevant country evidence, an expert report if and where appropriate and a medical report where required. Be mindful that getting reports is a time-consuming process and may require an application for adjournment of proceedings.
11. Child-trafficking cases present a different set of challenges. In comparison to adults, children have a reduced ability to assess risk and are more dependent on others. Moreover, child victims of trafficking should be considered as children first and foremost. Article 12 of the UN Children's Rights Convention (CRC) states that "[a] child victim who is capable of forming his or her views has the right to express those views freely in all matters affecting him or her. Respect for the views of the child will be maintained in relation to the legal process, interim care and protection, and the identification and implementation of a durable solution, particularly in decisions concerning the child's possible return to the family, country or region of origin." The CRC also provides that a child has a right to (i) not be discriminated against on account of race, sex, language, religion, ethnic or social origin, birth, or other status, including immigration status; (ii) confidentiality; (iii) information; and (iv) to be protected.<sup>9</sup> Please also refer to Part 6 of the toolkit for further information relating to case preparation.

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<sup>5</sup> [http://www.eaves4women.co.uk/POPPY\\_Project/POPPY\\_Project.php](http://www.eaves4women.co.uk/POPPY_Project/POPPY_Project.php)

<sup>6</sup> <http://www.torturecare.org.uk/>

<sup>7</sup> <http://www.helenbamber.org/programmes.html>

<sup>8</sup> <http://www.ukhtc.org/index.htm>

<sup>9</sup> Articles 2, 9, 13, 16 and 20 of the CRC



### 3. Defining Trafficking

The UN Trafficking in Persons Protocol entered into force on 29 September 2003 and was ratified by the UK on 9 February 2006. The Protocol defines “Trafficking in persons” at Article 3, sub-paragraph (a) as:

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

Article 4, subparagraph (a), of the Council of Europe Convention on Action against Trafficking in Human Beings<sup>10</sup> offers the same definition for trafficking in persons and further states that:

- b. The consent of a victim of “trafficking in human beings” to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d. "Child" shall mean any person under eighteen years of age;
- e. “Victim” shall mean any natural person who is subject to trafficking in human beings as defined in this article.

#### **Smuggling vs. Trafficking**

Although smuggling and trafficking both involve the movement of human beings for economic profit, there is a distinction to be made between trafficking and smuggling. The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing United Nations Convention against Transnational Organized Crime also known as the “Migrants Protocol” (General Assembly resolution 55/25, annex III)<sup>11</sup> defines the “smuggling” of migrants as:

the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident

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<sup>10</sup> The Council of Europe Convention on Action against Trafficking in Human Beings Convention was signed by the UK on 23 March 2007 but to-date remains unratified by the UK. Please also note that the Convention requires ratification by 10 states (including 8 member states) before it can enter into force. To-date, only seven countries have ratified the Convention

<sup>11</sup> The Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing United Nations Convention against Transnational Organized Crime entered into force on 28 January 2004 and was ratified by the UK on 9 February 2006



According to the United Nations Office on Drugs and Crime, human trafficking requires two additional elements beyond smuggling: (i) there must be some improper form of recruitment, for example recruitment by coercion or involving deception or some abuse of authority; and (ii) the recruitment must have been undertaken for the purpose of exploitation, although the purpose does not necessarily have to have been fulfilled.<sup>12</sup> Moreover, the UNODC sets out 3 important differences between smuggling and trafficking:

**Consent:** The smuggling of migrants, while often undertaken in dangerous or degrading conditions, involves migrants who have consented to the smuggling. Trafficking victims, on the other hand, have either never consented or, if they initially consented, that consent has been rendered meaningless by the coercive, deceptive or abusive actions of the traffickers.

**Exploitation:** Smuggling ends with the migrants' arrival at their destination, whereas trafficking involves the ongoing exploitation of the victim. From a practical standpoint, victims of trafficking also tend to be affected more severely and to be in greater need of protection from revictimization and other forms of further abuse than are smuggled migrants.

**Transnationality:** Smuggling is always transnational, whereas trafficking may not be. Trafficking can occur regardless of whether victims are taken to another State or only moved from one place to another within the same State.<sup>13</sup>

When representing a victim of trafficking, familiarity with the following definitions and concepts is also important.

### **Slavery, Forced Labour and Servitude**

Slavery was initially prohibited under international law by the Convention to Suppress the Slave Trade and Slavery of 1926. Article 1 of this Convention defines slavery as:

Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised

An international instrument to prohibit Forced Labour followed shortly afterwards in 1930 with the International Labour Organisation (ILO) Convention No. 29. Article 2(1) of Convention No. 29 defines forced labour as:

All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily

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<sup>12</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Smuggling of Migrants

<sup>13</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Distinction between trafficking in persons and smuggling of migrants



The prohibition of slavery and forced labour is a non-derogable right under the 4 European Conventions on Human Rights of 1950 (ECHR). Such is the importance of the prohibition on slavery and slavery related practices, that it is now widely considered to be a Jus Cogens rule (a principle of international law that is based on values taken to be fundamental to the international community and one that cannot be set aside).<sup>14</sup>

Another practice that is prohibited under a number of international treaties<sup>15</sup> is that of “servitude”. This is a difficult concept to define without making reference to slavery. It may best be considered to be practices similar to slavery, such as debt bondage, serfdom, forced marriage and child exploitation.

### **Child trafficking**

The UNTOC considers child victims of trafficking as constituting special cases in that they are considered to be victims of trafficking whether or not they have been coerced or deceived into their situation.<sup>16</sup> Moreover, even the child’s guardian cannot give consent for the trafficking and subsequent exploitation of the child.<sup>17</sup>

### **Forms of exploitation**

Trafficking is undertaken for the purposes of economic gain and often results in the victim being sold into sexual slavery or being trafficked for forced labour within industries such as the catering industry, construction and domestic work. According to a recent UK Home Office report, children trafficked to the UK have been “documented within domestic service, catering and manual labour. They are also used for credit card/benefit fraud and illicit activities”.<sup>18</sup>

### ***Forced marriage, domestic violence and trafficking***

A forced marriage is “a marriage conducted without the valid consent of one or both parties, where duress is a factor. Duress has been recognized by UK courts to include emotional pressure as well as criminal actions such as assault and abduction. It is a violation of internationally recognized human rights standards and a form of domestic violence.”<sup>19</sup> There is a distinction to be made between a forced marriage and an arranged marriage. According to the UK Government, “[i]n arranged marriages, the families of both spouses take a leading role in choosing the marriage partner but the choice of

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<sup>14</sup> For a in depth analysis of the international legal position of slavery please refer to ‘No One Shall Be Held in Slavery or Servitude: A Critical Analysis of International Slavery Agreements and Concepts of Slavery’. Bales and Robbins, Human Rights Review January - March 2001

[http://oro.open.ac.uk/5033/01/Bales\\_and\\_Robbins.pdf](http://oro.open.ac.uk/5033/01/Bales_and_Robbins.pdf)

<sup>15</sup> Including article 4 Universal Declaration of Human Rights, article 8 International Covenant on Civil and Political Rights and article 1 of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

<sup>16</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Consent of victims and Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 Introduction

<sup>17</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Consent of victims

<sup>18</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 Executive Summary: Part B

<sup>19</sup> UK Foreign & Commonwealth Office, Forced Marriage: A Wrong not a Right, 2005 What is forced marriage



whether or not to accept the arrangement remains with the potential spouses. They give their full and free consent. By contrast, in a forced marriage, one or both spouses do not consent to the marriage or consent is extracted through duress. Duress includes both physical and emotional pressure.”<sup>20</sup>

Recently, Sigma Huda, the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children (“Special Rapporteur on Trafficking”) reported that there are different types of forced marriage and different types of forced marriage are practiced across the various regions of the world.<sup>21</sup> According to the Special Rapporteur the different kinds of forced marriage include marriages:

to settle debt (Afghanistan); to receive dowry payment (Tanzania); to further cultural/economic interests, e.g. forced marriages initiated by landlords or local commanders who overrule girls/women and parents (Afghanistan); to gain control over daughters’ lives by sending daughters back to the home country to marry local men (United Kingdom, United States of America, France, Austria and Switzerland); of girls to men from overseas in order for them to obtain residence permits as husbands (United Kingdom, Germany); to display status, e.g. bride wealth (Kenya); as inheritance when a widow is forced to marry a dead husband’s brother, or a widower marries a dead wife’s younger sister without her consent (Africa); in *trokosi* or *devadasi*, when young girls are forcibly married to a local god, represented by a priest (Ghana and India); after abduction or kidnapping (Afghanistan, Ghana, Serbia among the Roma people); to any willing groom, often men with disability or of lower class, to a girl who is impregnated while living at home by a male relative (Kenya); to “protect” a girl’s virginity and counteract promiscuity (Kenya); as compensation when men of one extended family have killed a man of another extended family (Afghanistan); to relieve poverty and for economic gain (Zambia); and to facilitate female genital mutilation (Ethiopia). Moreover, polygamous marriages were also described as constituting forced marriages. Furthermore, the Special Rapporteur was also informed about cases of trafficking in girls to fill the gap caused by the practice of female foeticide in certain parts of India, including Punjab, Gujarat, Rajasthan and Haryana.<sup>22</sup>

Forced marriages entail a violation of human rights enshrined in a variety of instruments. These are:

- “Marriage shall be entered into only with the free and full consent of the intending spouses” - Universal Declaration of Human Rights, Article 16 (2);
- “State parties shall ensure on a basis of equality of men and women... the same right to choose a spouse and to enter into marriage only with their full and free consent” - Convention to Eliminate All Forms of Discrimination Against Women - CEDAW, Article 16 (1) (b);

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<sup>20</sup> The Lilith Project, *Eaves Housing for Women, Forced Marriage and Trafficking in Person*, s I

<sup>21</sup> Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Report on the implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, 24/01/2007 para 28

<sup>22</sup> Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Report on the implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, 24/01/2007 para 28



- “A woman’s right to choose a spouse and enter freely into marriage is central to her life and her dignity and equality as a human being.” - General recommendation No 21, UN Committee on the Elimination of All Forms of Discrimination against Women;
- “Everyone has the right to liberty and security of person” - Article 5 of the Human Rights Act 1998;
- “Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.” - Article 12 of the Human Rights Act 1998;
- “No marriage shall be legally entered into without the full and free consent of both parties” - UN Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, Article 1; and
- “The UN recognises forced marriage as a form of contemporary slavery, trafficking and sexual exploitation.” - UN working group on contemporary forms of slavery 28<sup>th</sup> Session Geneva June 2003.<sup>23</sup>

In relation to the nexus between trafficking and forced marriage, article 1(5) of the 2002 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution defines “persons subjected to trafficking” as “women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means”.<sup>24</sup> Moreover, according to the Special Rapporteur on Trafficking, “Forced marriage has, in fact, been recognized as a form of human trafficking. Forced marriage can be used as a method of recruitment for the purpose of trafficking in persons and may be the result of trafficking in persons.”<sup>25</sup> The United Nations Working Group on Contemporary Forms of Slavery “recognized forced marriage as a form of contemporary slavery, trafficking and sexual exploitation”.<sup>26</sup> Commenting on the relationship between forced marriages and trafficking, a 2006 report by a doctoral student notes that:

Marriage can be an attractive tool for sex traffickers. The legality of marriage often offers a false sense of security that there is no victimization, coercion or exploitation involved, hence providing a veil for the perpetrators, and could possibly lead to a means of trafficking women across the UK...When the process of trafficking begins at a more domestic level – with perpetrators ranging from spouses and partners to parents and other family members, the familial relationship between trafficking agents and victims often

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<sup>23</sup> UK Foreign & Commonwealth Office, Forced Marriage: A Wrong not a Right, 2005 How does this relate to human rights

<sup>24</sup> Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Report on the implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, 24/01/2007 para 32

<sup>25</sup> Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Report on the implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, 24/01/2007 para 31. Please also see Global Alliance Against Traffic in Women Statement submitted to the fifth Human Rights Council.

<sup>26</sup> Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Report on the implementation of General Assembly Resolution 60/251 of 15 March 2006 entitled “Human Rights Council”, 24/01/2007 para 33



leads to barriers in disclosure. This provides the perpetrators with a coercive tool to use and abuse these women at every step of the trafficking game.<sup>27</sup>

In fact, traffickers may marry a woman to facilitate trafficking or they may marry her to another person to achieve the same. According to the Global Alliance against Trafficked Women (GAATW)

States have hardly begun to deal with trafficking into marriage as it challenges beliefs dominant in many societies about the sanctity of marriage and family values. As forced marriage occurs largely in the private sphere, it is difficult to police. Further, families and communities may resist viewing a marriage as forced or resist acknowledging that they have taken part in human trafficking. Police often have not been trained to identify a servile marriage as a trafficking case, not least because of the erroneous but widely held notion that human trafficking is limited to the sex industry.<sup>28</sup>

In the UK, the Home Office's Forced Marriage Unit deals with approximately 250 cases of forced marriage a year.<sup>29</sup> It is suspected that this is not an accurate reflection of the number of forced marriage cases in the UK as many cases go unreported. Information made available by End Child Prostitution, Child Pornography and the Trafficking of children for sexual purposes (ECPAT) in January 2007 suggests that "in three regions in the UK, 80 children were known or suspected to have been trafficked in for sex, employment exploitation or forced marriage".<sup>30</sup>

Forced marriage is to a large extent a hidden issue as it takes place in the private sphere and is underpinned by notions of family honour that stop women from exposing the violence that they have been or are being subjected to. Moreover, the existence of a patriarchal society, the concept of "regulated female sexuality", the use of "honour as a justification of violence" and the "social significance of female shame and victim blaming" all contribute to the existence of the practice of forced marriage, exploitation of women and can also "rationalise and encourage sex trafficking".<sup>31</sup> According to Leicester's Domestic Violence Integrated Response Project (DVIRP), "[o]ne of the reasons women don't report it is they are afraid of criminalising their family ... Coming forward takes a lot of courage. Those who do may find themselves completely excluded from their community ... People often feel a lot of misguided guilt about trying to free themselves from a forced marriage... even if they are being beaten, raped and abused ... A lot of them have been brainwashed from a very young age ... Rebelling against it is very difficult... It can also mean trouble for their siblings. If they bring 'shame' on their family, then their brothers and sisters won't be able to get married, either."<sup>32</sup>

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<sup>27</sup> The Lilith Project, *Eaves Housing for Women, Forced Marriage and Trafficking in Person*, s IV

<sup>28</sup> GAATW, Written Statement submitted to the fifth session of the Human Rights Council, 2007 State responses

<sup>29</sup> UK Foreign & Commonwealth Office, *Forced Marriage: A Wrong not a Right*, 2005 How prevalent is forced marriage. According to information made available by the FCO, approximately 15% of cases dealt with by the FMU are males. The FMU has worked on cases from Pakistan, Bangladesh, India, Mauritius, Turkey, Sri Lanka, Tanzania, El Salvador, Somalia, Mali, America and Hong Kong.

<sup>30</sup> Mail & Guardian Online, *The UK's Child Slaves*, 25/06/2007

<sup>31</sup> Mega Arumugam, *Maid in (Dis)Honour, The Wedlock of Sex Trafficking*, Accessed in 07/2007

<sup>32</sup> Leicester Mercury, 'These people are trafficked. In reality, it is a jail sentence', 25/04/2007



The Forced Marriage (Civil Protection) Act 2007 provides that those at risk of a forced marriage are able to apply for a court order to prevent them being subjected to a forced marriage whilst victims of forced marriage could sue for damages under the new legislation.<sup>33</sup>

Dealing with victims of forced marriage or those about to undergo a forced marriage may present serious ethical issues for practitioners. If in doubt, practitioners should discuss the matter with their supervisor or contact specialised agencies experienced in dealing with victims of forced marriage. Details of such organisations can be accessed at section 5 of the toolkit.

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<sup>33</sup> The full text of the Forced Marriage (Civil Protection) Act 2007 Act can be accessed at:  
[http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga\\_20070020\\_en.pdf](http://www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070020_en.pdf)



## 4. Trafficking in the UK context

### **Root causes of trafficking**

A variety of country of origin conditions cause and facilitate trafficking of individuals to the UK. According to Anti-Slavery International, the “root causes of trafficking are structural, systematic and also of a global nature”.<sup>34</sup> The causes vary from country to country and region to region but the underpinning factors tend to be the following:

- **Poverty/lack of opportunity**: economic hardship and lack of opportunities to better one’s quality of life often make individuals vulnerable to exploitative situations.<sup>35</sup>
- **Migration for labour**: the demand for cheap migrant labour fuels trafficking for labour exploitation. According to Anti-Slavery International, “[t]he lack of opportunities in home countries and the demand for cheap labour (which is generated by the demand for cheap goods and services) in countries of destination vis-à-vis the restrictive migration policies, provide a fertile ground for trafficking and exploitation”.<sup>36</sup>
- **Conflict, crime, political factors and social violence**: conditions in the country of origin lead to vulnerability to exploitation by traffickers.<sup>37</sup>
- **Gender-based discrimination**: women and girls can be disproportionately vulnerable to exploitation by traffickers.<sup>38</sup>

Furthermore, UNODC note that “[p]orous borders, corrupt government officials, involvement of international organized criminal groups or networks, limited capacity of or commitment by immigration and law enforcement officers to control the borders, lack of adequate legislation and political will and commitment to enforce existing legislation or mandates are other factors that facilitate trafficking in persons.”<sup>39</sup>

### **UK – Destination and transit country**

The United Kingdom is described as a “major destination” for trafficked women. Victims of trafficking are found “all over the UK, not just in metropolitan areas”.<sup>40</sup> The Home Office is of the view that although the UK is mainly a destination country, internal trafficking does occur within the UK and “networks lead onwards from the UK to destinations such as North America”.<sup>41</sup>

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<sup>34</sup> Anti-Slavery International, Trafficking for forced labour: UK Country Report, 2006 Context of trafficking in the UK

<sup>35</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Root Causes of Trafficking in Persons

<sup>36</sup> Anti-Slavery International, Trafficking for forced labour: UK Country Report, 2006 Context of trafficking in the UK

<sup>37</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Root Causes of Trafficking in Persons

<sup>38</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Root Causes of Trafficking in Persons

<sup>39</sup> UNODC, Toolkit to Combat Trafficking in Persons, 2006 Root Causes of Trafficking in Persons

<sup>40</sup> BBC News, Quick Guide; Human Trafficking, 02/10/2006

<sup>41</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 3



### **Nationalities and age-groups**

According to the UK Action Plan on Tackling Human Trafficking, the most common nationalities of victims trafficked to the UK for sexual exploitation are: Eastern Europe, China/South-East Asia, Africa and Brazil.<sup>42</sup> Information made available by the Joseph Rowntree Foundation suggests that large numbers of women are from east and central Europe - so much so that up to 75% of the prostitutes in some parts of London are now from Eastern Europe.<sup>43</sup>

In relation to trafficking for the purposes of labour exploitation, the Home Office notes that “there is very little factual and robust evidence concerning trafficking of adults to the UK for the purposes of labour exploitation”.<sup>44</sup> This is primarily due to a lack of or non-existent “systematic collection of the required data within the UK, in relation to either victims or perpetrators”.<sup>45</sup> According to the Home Office, adults trafficked to the UK for labour exploitation tend to (i) exhibit a wide range of nationalities including Eastern Europeans, Asians, Africans and South Americans; (ii) are equally likely to be both males and females; and (iii) may have entered and/or be working in the UK illegally or legally.<sup>46</sup>

The Home Office have stated that child victims of trafficking are primarily of African or Asian nationalities although some victims are also reported to be from Eastern Europe and Jamaica.<sup>47</sup> Child trafficking affects a range of ages. However, “[l]imited evidence points strongly to 16- to 17-year-olds being trafficked most commonly to the UK, but when children trafficked for sexual exploitation are removed from the picture, there appears to be no distinctive age trend for those trafficked for labour exploitation”.<sup>48</sup>

### **Statistics**

Both the Home Office and the police acknowledge that there are no reliable estimates of the number of people trafficked in the UK.<sup>49</sup> There have been varying estimates of the number of people trafficked to the UK with more information being available in relation to women and girls trafficked for prostitution in the UK. In March 2007, the Guardian reported that during 2003 there were an estimated 4,000 women victims of trafficking working in prostitution in the UK.<sup>50</sup> According to the same source, the problem is believed to have grown since then. Another estimate cited by the Guardian puts the number of trafficked women at 10,000 in London and the Midlands.<sup>51</sup> In a recent parliamentary speech, the Solicitor General estimated that annually more than 1,000

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<sup>42</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Background

<sup>43</sup> Joseph Rowntree Foundation, Contemporary slavery in the UK, 2007 s5

<sup>44</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 3

<sup>45</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 3

<sup>46</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 3

<sup>47</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 4

<sup>48</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 4

<sup>49</sup> Joseph Rowntree Foundation, Contemporary slavery in the UK, 2007 s2 Numbers

<sup>50</sup> The Guardian, Trafficking victims to be granted 30 day stay, 23/03/2007

<sup>51</sup> The Guardian, Trafficking victims to be granted 30 day stay, 23/03/2007



women are trafficked to the UK for sexual slavery. A recent Joseph Rowntree Foundation report observed that the Solicitor General's estimate is "generally recognized to be a substantial under-(guess)time."<sup>52</sup>

No reliable estimates of numbers of those trafficked to the UK for labour exploitation are available owing to the lack of or non-existent collection of the data relating to those trafficked to the UK for labour exploitation and it is therefore also not possible to determine whether trafficking for labour exploitation is increasing or decreasing.<sup>53</sup>

### **Recent developments in the UK**

The following quote is illustrative of the fact that the UK's approach to the issue of trafficking has, to date, been far from victim-centered or rights-focused:

Because migration is such a controversial issue in the UK, the approach to trafficking has at times overemphasized law enforcement at the expense of the protection needs of the victim. The UK has tended to address trafficking as an issue of migration control rather than a human rights problem. This has led to the deportation of trafficking victims, especially women, without adequate consideration for their safety and well being.<sup>54</sup>

However, there have been a number of positive recent developments. It is hoped that the following are indicators that the UK authorities' approach to trafficking is becoming increasingly rights-based and victim-centered:

- On 23 March 2007, the UK signed the Council of Europe Convention on Action against Trafficking in Human Beings. According to the Home Office, once the Convention is implemented:

any person whom the authorities believe to be a victim of trafficking will be entitled to a period of recovery and reflection. During this period, victims will be entitled to assistance including secure accommodation, appropriate psychological assistance, and access to counseling and emergency medical assistance. The Convention also provides an avenue for victims to apply for a renewable residence permit if, for example, their stay is necessary for the purpose of their cooperation with the competent authorities in an investigation or criminal proceedings. It enables us to build on existing measures and move from our current 'supportive' approach to a more human rights based strategy. Developing a robust and effective system that incorporates the full range of provisions will take a considerable amount of time and there is a need to continue developing the protection and assistance for victims in the interim.<sup>55</sup>

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<sup>52</sup> Joseph Rowntree Foundation, Contemporary slavery in the UK, 2007 s2 Numbers

<sup>53</sup> Home Office, Trafficking for the purposes of labour exploitation: a literature review, 2007 s 3 and 4

<sup>54</sup> Joseph Rowntree Foundation, Contemporary slavery in the UK, 2007 s3

<sup>55</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Executive Summary



- In March 2007, the Home Office and the Scottish Executive jointly published the UK Action Plan on Tackling Human Trafficking (“Action Plan”) which states that the UK will not ratify the EU Convention until such time as the “required legislative and process changes” required to implement the EU Convention are in place. The Action Plan also suggests a way forward for tackling the issue of trafficking in the UK.<sup>56</sup> Some suggested recommendations for improving victim assistance are: (i) posting specialist teams at UK ports of entry; (ii) setting up a telephone helpline for social workers, law enforcement authorities and immigration staff who come into contact with victims of trafficking; (iii) ensuring that relevant staff have the knowledge and expertise required to identify victims of trafficking and offer them the support they need; and (iv) ensure that victims are informed of their rights and are provided with the assistance they require to reintegrate effectively.<sup>57</sup> The Action Plan also makes recommendations relating to the prevention of trafficking and investigation, law enforcement and prosecution.<sup>58</sup>
- In relation to child victims of trafficking, some of the recommendations made by the Action Plan include: (i) development of a national referral mechanism with a clear point of contact for initial identification and onward referral into support services and a robust system for the formal identification of victims; (ii) development of a code of practice on the carriage of minors; and (iii) agree safe arrangements for trafficked children to be accommodated within the Unaccompanied Asylum Seeking Children Reform Programme.<sup>59</sup>
- The UK Human Trafficking Centre (UKHTC) was set up in Sheffield on 3 October 2006. The UKHTC is a “multi agency centre that provides a central point for the development of expertise and operational co-ordination in relation to the trafficking of human beings, working together with other agencies in the UK and abroad. It plays a key role in co-ordinating work across stakeholders and, with its partners, delivers a diverse set of programmes, including targeted campaigns to prevent and reduce the trafficking of human beings. In addition, the centre conducts research, develops training packages for UK Law Enforcement partners, cascades good practice and works to deliver an improved knowledge and understanding of the way criminal enterprises associated with human trafficking operate. The Centre promotes the development of a victim-centred human rights based approach to THB. Working with Non Governmental Organisations (NGOs) and other partners, it works to improve the standard of victim care and protection and understanding of the complexities that attach to dealing with victim welfare in

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<sup>56</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Executive Summary, Background and Annex C

<sup>57</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Annex C

<sup>58</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Annex C

<sup>59</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Annex C



human trafficking cases in both the criminal justice and wider protection environment.”<sup>60</sup>

- Legislation enacted in 2006 namely, the Immigration, Asylum and Nationality Act 2006 makes employing an illegal worker an offence punishable by a prison term of not more than two years and/or a fine. This piece of legislation is the latest addition to the existing legislation aimed at criminalising trafficking in the UK. Moreover, section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004 makes trafficking for all forms of labour exploitation an offence punishable by imprisonment for a term not exceeding 14 years and/or to a fine. In addition, the Gangmasters (Licensing) Act 2004 which came into force as a result of the Morecambe Bay disaster, establishes a system for registering labour providers and provides penalties for offences such as possession of another person’s false documentation. The maximum sentence under this act is 12 months. Furthermore, sections 57 and 58 of the 2003 Sexual Offences Act criminalises the facilitation of another person into, within or from the UK with the intent of committing another offence under the act. The trafficking of persons for sexual exploitation under this act is punishable by a maximum sentence of 14 years. Please see Part 6 of the toolkit for further information relating to legislation.

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<sup>60</sup> UKHTC website: <http://www.ukhtc.org/history.htm>



## 5. Identification, interviewing and referral procedures

### **Identification**

In relation to identification of trafficking victims, Article 10 of the EU Convention requires signatory states to “provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.”

Moreover, Article 10 requires state parties to take the measures necessary to ensure the identification of victims of trafficking in collaboration with other organisations including support organisations. Article 10 also states that if the authorities have “reasonable grounds” to believe that a person has been victim of trafficking, that “person shall not be removed from its territory” until identification of the individual is completed in accordance with the provisions of the Convention and until the state has ensured that the individual has received assistance in the form of secure accommodation, access to emergency medical assistance and psychological help.

Identification of victims of trafficking may be complicated by the fact that a trafficking-based asylum claim can arise in a number of varying circumstances. For example, the victim may have been trafficked abroad and subsequently escaped her/his trafficker; or an individual may have fled their country for fear of being trafficked; or the individual may have been trafficked within her country and subsequently escaped her/his traffickers and fled abroad to seek asylum. According to the UNHCR’s April 2006 Guidelines<sup>61</sup> (“UNHCR Guidelines”), three inter-related elements of the definition of trafficking can be identified. These are:

The act: recruitment, transportation, transfer, harbouring or receipt of persons;

The means: by threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or of giving or receiving of payments or benefits to achieve the consent of a person having control over the victim;

The purpose: exploitation of the victim, including, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

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<sup>61</sup> UNHCR April 2006 Guidelines on International Protection: The Application of Article 1(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked sII paras 8-9



Considering the facts of a suspected trafficking case in light of these elements of the definition of trafficking can help determine whether a given set of circumstances amounts to trafficking.

Despite the assurances of Article 10, no process can guarantee the identification of victims of trafficking. Identification relies on a careful and measured assessment of available indicators such as, age, gender, nationality and so forth. The following indicators which have been made available by The Salvation Army (USA) may facilitate identification of victims of trafficking<sup>62</sup>:

- Appears to be under someone else's control. They appear to be under someone else's surveillance at all times. All or most contacts with family, friends, and professionals are controlled and monitored. They are rarely alone.
- Is unable to move to a new location or leave their job.
- Does not manage their own money/ or their money is largely controlled by someone else.
- Is not in control of their own identification or travel documents.
- Works excessive hours.
- Is unpaid for their work or paid very little.
- Lives with multiple people in a very cramped space.
- Lives with their employer.
- Has no English language skills or knowledge of the local community.
- Appears to have little privacy or is rarely alone.
- Appears to have visible injuries or scars, such as cuts, bruises, or burns. May have injuries around the head, face, and mouth from being struck in the head or face. Has untreated illnesses or infections, particularly sexually transmitted diseases. May have general poor health and/or diseases associated with un-sanitary living conditions.
- Exhibits submissive behavior or fearful behavior in the presence of others.
- Exhibits emotional distress such as depression, anxiety, manifestations of trauma, self-inflicted injuries or suicide attempts.
- Engages in prostitution or living in a brothel.
- Is sexually exploited in strip clubs, massage parlors, pornography.
- Is under the age of 18, in prostitution, or hanging around adult entertainment businesses such as strip clubs, massage parlors, adult book/video stores, etc. 4

Moreover, the Salvation Army (USA) also helpfully provides a list of questions that can help with identification of victims of trafficking:

1. Are you now being (or have you at one time been) held against your will?
2. Were you ever forced or intimidated to do something against your will?

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<sup>62</sup> The Salvation Army USA, How to Identify Victims of Human Trafficking, Accessed at [http://www.salvationarmyusa.org/usn/www\\_usn.nsf/vw-sublinks/323F7FB8E28FE18B85256F6600598FB3?openDocument](http://www.salvationarmyusa.org/usn/www_usn.nsf/vw-sublinks/323F7FB8E28FE18B85256F6600598FB3?openDocument)



3. Do you have a choice of where you work and how much you work?
4. Have you been abused or beaten by your employers?
5. Can you come and go as you please?
6. Are you paid?
7. How many hours/day and days/week do you work?
8. Have you or your family been threatened to prevent you from leaving?
9. Upon arrival in the [UK] did someone ask you to pay back a debt?
10. Are you doing what you were told you would be doing in the [UK]?
11. Who has your passport/identification papers?

In addition, the ILO has produced six indicators of forced labour which provide useful hints as to whether an individual may be a (potential) victim:

- 1) Threats or actual physical harm to the worker.
- 2) Restriction of movement and confinement, to the workplace or to a limited area.
- 3) Debt bondage (where the worker works to pay off a debt or loan, and is not paid for his or her services. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt).
- 4) Withholding of wages or excessive wage reductions that violate previously made agreements.
- 5) Retention of passports and identity documents so that the worker cannot leave or prove his / her identity and status.
- 6) Threat of denunciation to the authorities, where the worker is in an irregular immigration status.

### **Interviewing suspected victims of trafficking**

An important aspect of the identification process is the interviewing of victims of trafficking or suspected victims of trafficking. The following is useful guidance provided by the United Nations Office on Drugs and Crime (UNODC)<sup>63</sup> in relation to the ethical and safe interviewing of suspected victims of trafficking victims and ethical considerations when conducting interviewing:

#### Background

The victim identification process should respect the rights of victims, their choice and their autonomy. To accomplish this objective, it is suggested that the victim identification process should be an integral part of the victim protection mechanisms set in place in the State. [...]

#### Interviewing suspected victims

- Law enforcement can identify persons as presumed trafficked persons during the first interview if they suspect that persons may have been trafficked. The following minimum standards should be in place during the first interview,

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<sup>63</sup> UNODC, Toolkit to Combat Trafficking in Persons, s6 Tools 6.6-6.8



regardless of the legal status of the person being interviewed:

- The presumed trafficked person should be informed about the procedure of the police interrogation and its consequences.
- The information given should be clear, accurate and in the native language of the presumed trafficked person.
- Experienced interpreters should be present during the interview.
- Questions touching upon the person's privacy, for instance, regarding intimate relationships and experiences in prostitution, should be avoided.
- A trafficked person can only be conclusively identified as such if the distinct elements of the crime of trafficking have been detected. This may require time because of the complexity of the crime of trafficking and the vulnerable status of trafficked persons suffering from post-traumatic stress disorder.
- A particularly effective way to promote self-identification of victims of trafficking is to allow for a "reflection period" [...] a period of time in which the presumed trafficked person is referred for services and counseling, without having to make an immediate statement to police on her or his status. This enables the presumed trafficked person to receive appropriate support and allows them to make informed decisions.
- Besides the statements of the presumed trafficked person, other evidence should be collected to identify all the facts and relevant information to determine if the case is one of trafficking. [...]

## Ethical and safe conduct of interviews with victims

### Background

Interviewing a person who has been trafficked raises a number of ethical questions and safety concerns. The World Health Organization (WHO) has developed a set of recommendations intended primarily for use by researchers, members of the media and service providers unfamiliar with the situation of trafficked victims. These recommendations are based on a set of 10 guiding principles to the ethical and safe conduct of interviews with women who have been trafficked. Even though the recommendations are focused on female victims, they apply also to other victims of human trafficking.<sup>64</sup>

### Women

#### 1. Do no harm

Treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term.

#### 2. Know your subject and assess the risks

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<sup>64</sup> World Health Organization, WHO Ethical and Safety Recommendations for Interviewing Trafficked Women (Geneva, 2003), available at: <http://www.who.int/gender/documents/en/final%20recommendations%2023%20oct.pdf>



Learn the risks associated with trafficking and each woman's case before undertaking an interview.

3. Prepare referral information: Do not make promises that you cannot fulfil  
Be prepared to provide information in a woman's native language and the local language (if different) about appropriate legal, health, shelter, social support and security services and to help with referral, if requested.

4. Adequately select and prepare interpreters and co-workers  
Weigh the risks and benefits associated with employing interpreters, co-workers or others and develop adequate methods for screening and training.

5. Ensure anonymity and confidentiality  
Protect a respondent's identity and confidentiality throughout the entire interview process—from the moment she is contacted through the time that details of her case are made public.

6. Get informed consent  
Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information, her right not to answer questions, her right to terminate the interview at any time and her right to put restrictions on how the information is used.

7. Listen to and respect each woman's assessment of her situation and risks to her safety. Recognise that each woman will have different concerns and that the way she views her concerns may be different from how others might assess them.

8. Do not re-traumatize a woman  
Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.

9. Be prepared for emergency intervention  
Be prepared to respond if a woman says she is in imminent danger.

10. Put information collected to good use  
Use information in a way that benefits an individual woman or that advances the development of good policies and interventions for trafficked women generally.

Please also refer to (i) the Protocol for Identification and Assistance to Trafficked Persons and Training Kit, a 2005 Anti-Slavery International publication which provides very comprehensive advice on identification and interviewing procedures. The training kit can be accessed at

<http://www.antislavery.org/homepage/resources/PDF/Protocoltraffickedpersonskit2005.pdf>; and (ii) the US Department of Justice, Office of Justice Programs, National

Conference on Human Trafficking which offers very practical Best Practice Guidelines for Interviewing Victims. The guidelines deal with pre-interview preparation, conduct of interviews and subsequent interviews and can be accessed at:

[http://www.humantraffickingconference.com/pdf/Handouts/Tuesday/Florrie%20Burke\\_Interviewing%20Guidelines-06.pdf](http://www.humantraffickingconference.com/pdf/Handouts/Tuesday/Florrie%20Burke_Interviewing%20Guidelines-06.pdf)



### **Informed consent and authority to act**

Upon identification of a victim of trafficking and prior to referral of the victim to specialized agencies for support, it is imperative to (i) have the **informed consent** of the client as to the suggested course of action; and (ii) have **authority to act** on behalf of the client when undertaking referral procedures.

### **Referral Procedures**

According to the Home Office, the newly created UK Human Trafficking Centre (UKHTC) “plays a central role in promoting a more standardized, corporate, inter-agency approach within the enforcement agencies and now provides twenty-four hour contact for front-line staff to help in the early identification and referral of victims”.<sup>65</sup> The current practice is that upon identification by the police or an NGO, the victim is referred to the Poppy Project or through the UKHTC to other service providers so that a full needs assessment can be conducted. The Poppy Project is funded by the Home Office and the Association of Local Government and provides support and housing to women who have been trafficked into prostitution.

The Poppy Project is able to provide housing and support to up to 35 women who have been trafficked for sexual exploitation. To access assistance from the Poppy Project, women are required to satisfy a list of fairly restrictive Home Office dictated criteria. These criteria are: (i) that the woman was brought to the UK; (ii) that she has been forcibly exploited by her trafficker; (iii) that she was working in prostitution (in the UK); and (iv) that she is willing to co-operate with the authorities.<sup>66</sup> Women accepted onto the Poppy Project are offered services including a food/subsistence allowance, a health assessment, access to health care, counseling, independent legal advice, support through asylum and immigration processes, liaison with Police & Immigration, access to education and English classes and where applicable, support with the voluntary return scheme run by the International Organisation for Migration.<sup>67</sup> More recently, the Poppy Project has launched an outreach service which aims to provide support and advocacy to women who are trafficked into the UK for the purposes of prostitution. According to the Poppy Project, outreach workers will be “the first non police or statutory agency contact with trafficked women. Outreach workers will provide confidential advice and advocacy for women encountered in commercial sex premises. In order to ensure that women receive quality ongoing support, the team will also negotiate and liaise with enforcement agencies. Effective multi-agency working will be key to the development of the outreach service and the provision of support to the women.”<sup>68</sup> The outreach service will be based in London and will accept referrals within and outside of London.

Please note that women asylum seekers can remain supported by the Poppy Project whilst going through the New Asylum Model (NAM).<sup>69</sup>

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<sup>65</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Cpt 3

<sup>66</sup> Eaves, Poppy Project, Accessed on 11/05/2007

<sup>67</sup> Eaves, Poppy Project, Accessed on 11/05/2007

<sup>68</sup> Eaves, Poppy Project, Outreach Service, Accessed on 11/05/2007

<sup>69</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Cpt 3



Respondents to a recent consultation relating to trafficking stated that there is a need for a more formalised identification and referral procedure in the UK similar to the “national referral mechanism” recommended by the OSCE. For further information on the OSCE “national referral mechanism” please see:

[http://www.osce.org/documents/odihr/2004/05/2903\\_en.pdf](http://www.osce.org/documents/odihr/2004/05/2903_en.pdf)

The following are relevant contact details for referral agencies:

### **Poppy Project**

Website address: [http://www.eaves4women.co.uk/POPPY\\_Project/About\\_Us.php](http://www.eaves4women.co.uk/POPPY_Project/About_Us.php)

Address: Eaves, 2nd Floor Lincoln House, 1-3 Brixton Road, London SW9 6DE

Telephone: Referrals: contact the duty officer between 9.30am and 5.30pm on **020 7735 2062**; for general enquiries contact Louise Hinchliffe on **020 7840 7141**; and for information on the outreach service contact the duty officer between 9.30am and 5.30pm on **020 7735 2062**.

Referrals can be **ONLY** be made by telephone, and **NOT** by fax or email.

### **UKHTC**

Website address: <http://www.ukhtc.org/contact.htm>

Address: PO Box 4107, Sheffield S1 9QD

Email address: [info@ukhtc.org](mailto:info@ukhtc.org)

Telephone: 0 114 252 3891

Please do not email any sensitive information and do not email if urgent assistance is required. In the case of important urgent information that requires an immediate response contact a Police Officer, your local Police force or dial 999.

### **Other Organisations**

**Churches Against Sex Trafficking in Europe (CHASTE)** works with a growing number of partners for the provision of safe houses in the UK. Currently, Chaste provides one third of safe housing for victims of trafficking in the UK.

Address: P.O. Box 983, Cambridge CB 234WY

Website address: [www.chaste.org.uk](http://www.chaste.org.uk)

Telephone number: 0845 456 9335

Email address: [admin@chaste.org.uk](mailto:admin@chaste.org.uk)

**The Salvation Army** is very active in the areas of prevention, education, awareness raising, advocacy and care provision for victims around the world, and in the UK. The Salvation Army runs safe houses for victims of trafficking in different locations in the UK.



Address: Details of the nearest Salvation Army office can be accessed at:

<http://www1.salvationarmy.org.uk/trafficking>

Website address: [www1.salvationarmy.org.uk/trafficking](http://www1.salvationarmy.org.uk/trafficking)

Telephone number: 0800 555 111 (to report situations of suspected trafficking); and 0845 43 9159 (to refer victims of trafficking)

**The Medical Foundation for the Care of Victims of Torture** is a charity that provides survivors of torture in the United Kingdom with services including (i) medical assessment and care; (ii) practical assistance and psychotherapeutic treatment and support; (iii) documenting evidence of torture. The Medical Foundation accept referrals from survivors themselves, friends and family, GPs, solicitors, refugee community organisations or any other voluntary or statutory sector body. All services are free to the client. Referrals must be made in writing using our referral forms. The referral form can be accessed at:

<http://www.torturecare.org.uk/UserFiles/File/about/aboutReferralForm.doc>

Address: 111 Isledon Road, Islington, London N7 7JW

Website address: [http://www.torturecare.org.uk/about\\_us/introduction](http://www.torturecare.org.uk/about_us/introduction)

Telephone number: Switchboard: 020 7697 7777

Fax: 020 7697 7799; Asylum Team Fax: 020 7697 7799; Legal Officer Fax: 020 7697 7740

The Medical Foundation also has offices in the North-East and North-West of England and Scotland. The contact details of these offices are as follows:

#### **Medical Foundation – North-East**

Address: 2 Jesmond Road West, Newcastle Upon Tyne, NE2 4PQ

Telephone number: 0191 212 1916

Fax: 0191 245 7319

#### **Medical Foundation – North-West**

Address: 1st Floor North Square, 11-13 Spear Street, Manchester M1 1JU

Telephone number: 0161 236 5744

Fax: 0161 244 5577

#### **Medical Foundation – Scotland**

Address: Room 27, Adelphi Centre, 12 Commercial Road, Glasgow G5 0PQ

Telephone number: 0141 420 3161

Fax: 0141 429 6578

**The Helen Bamber Foundation** is a charity providing its services to those survivors in need of care. Since its inception, The Helen Bamber Foundation has received an ongoing stream of requests for help from solicitors, health professionals, individual survivors and the community. Cases referred to the Bamber Foundation range from those who have been affected by terrorist attacks in the UK to victims fleeing state-sponsored persecution in other countries who are now seeking asylum and refuge. The Foundation's areas of



intervention include: social well-being and integration, health care, legal protection, prevention of future violations and rehabilitation and therapeutic work.

Address: 5 Museum House, 25 Museum Street, London WC1A 1JT

Telephone: 0207 631 4492

Website address: <http://www.helenbamber.org/home.html>

**Kalayaan** is a charity that provides advice, advocacy and support services in the UK for migrant domestic workers. It is one of few organisations providing support to migrant workers who have been exploited or trafficked for forced labour in the UK. Kalayaan provides: free, independent and confidential advice on immigration and employment. support in retrieving passports from employers; training in accessing healthcare and mainstream services; English for speakers of other languages (ESOL) courses; support with reading and writing letters or form; practical emergency assistance to clients who have recently left abusive employers; social space where clients can come and meet friends, have tea or coffee and pick up mail; and referral services.<sup>70</sup>

Address: St Francis of Assisi Community Centre, 13 Hippodrome Place, London W11 4SF

Telephone: 0207 243 2942

Website address: <http://www.kalayaan.org.uk/>

Email address: [info@kalayaan.org.uk](mailto:info@kalayaan.org.uk)

**Karma Nirvana** is the South Asian Women's project run by Refuge and provides assistance to victims of forced marriage, honour crimes and domestic violence. Karma Nirvana runs a drop-in service and offers specialist support and advocacy, including case preparation, and referrals to refuges.

Telephone: 01332 604 098

**Forced Marriage Unit (FMU)** launched in January 2005 is a joint initiative of the Home Office and the UK Foreign Office. The FMU undertakes policy work, outreach work and aims to raise awareness and provide support to victims of forced marriage as well as practical assistance to those at risk of a forced marriage.

Telephone: 0207 008 0135

Email: [fmufco.gov.uk](mailto:fmufco.gov.uk)

**Ashiana Project** provides temporary and safe housing for South-Asian, Turkish and Iranian women between 16-30 who are experiencing domestic violence. Ashiana also runs a safe house for young women between 16-25 who are at risk of a forced marriage. To access Ashiana's referral criteria please consult its website.

Address: PO Box 816, E11 1QY

Telephone: 0208 539 9656/0427/6800

Website address: [www.ashiana.org.uk](http://www.ashiana.org.uk)

Email address: [info@ashiana.org.uk](mailto:info@ashiana.org.uk)

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<sup>70</sup> Kalyaan, Services, Accessed on 11 May 2007



**STOP (Trafficking UK)** is a new charity designed to support trafficked people by providing a variety of services including running a victims' helpline and assisting victims with support in relation to witness co-ordination and assistance with facing the criminal justice system.

Address: PO Box 28995, London, SW14 8WA

Website address: <http://www.stop-uk.org/>

Email address: [info@stop-uk.org](mailto:info@stop-uk.org)

## **6. Building a case to support a trafficking victim's claim for asylum**

This section of the toolkit provides guidance to practitioners in relation to running a trafficking-related asylum case.

### **The legal protection environment**

As with other asylum and human rights cases, the Convention Relating to the Status of Refugees and the European Convention on Human Rights (ECHR) are the most effective means of accessing protection for victims of trafficking. The requirements for a grant of asylum and humanitarian protection are laid out in the immigration rules at paragraphs 334 and 339C. Please see the following section for a discussion on how to prepare cases using these instruments.

The number of trafficking cases that have been reported is quite limited and regrettably those that have been reported are in the main unhelpful. It is recommended that the cases in annex 1 are reviewed, as this will help to inform the reader regarding the Tribunal's approach to trafficking cases and give helpful pointers as to where cases are won and lost. Representatives should also be aware of domestic legislation regarding the criminalisation of trafficking offences, including the Immigration, Asylum and Nationality Act, the Asylum and Immigration (Treatment of Claimants) Act, the Gangmasters (Licensing) Act and the Sexual Offences Act.

Asides from the ECHR, the most significant European instrument is the Council of Europe Convention on Action against Trafficking in Human Beings (EU Convention). The UK recently became a signatory to this and it is hoped that the government will ratify this convention later in the year. While the EU Convention has yet to enter into force, the fact that the UK has added its signature demonstrates an expression of intent to ratify and uphold the obligations contained within it.

Other important international treaties include; the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. Please refer to Annex 1 for an outline of the domestic legislation and case law and European and international treaties pertinent to trafficking cases.

### **The current Home Office approach to trafficking cases**



The Poppy Project and Women's Resource Project at Asylum Aid undertook a survey of thirty-two female victims of trafficking who claimed asylum between March 2003 and August 2005. Only one, of this group of thirty-two, was granted asylum prior to appeal. However, following appeals 80% were either granted refugee status or humanitarian protection. At present it is too early to assess whether the New Asylum Model will result in a change of approach.

In response to an initial application or an appeal the Home Office may seek to undermine an individual's case by presenting a combination of the following arguments:

- The individual's account is not credible.
- The individual's actions have led to their credibility being damaged in line with section 8 of the 2004 Asylum and Immigration Act.
- The individual's case does not engage a Refugee Convention ground.
- There is a sufficiency of protection in the country of origin.
- The individual could relocate safely within his/her country of origin.
- There is no real risk of future persecution if returned.
- The individual's case is not exceptionally compelling in terms of the compassionate circumstances.
- The individual's removal is in the public interests as it is vital to maintain effective immigration control.

It is, of course, essential to bear in mind the above possible reasons for refusing a claim when preparing a client's case.

### **Running trafficking-related asylum claims**

In trafficking cases the following Conventions and policies can be used to advance arguments that an individual should be permitted to remain in the UK:

- The Refugee Convention (engaging most probably particular social group PSG)
- The European Convention on Human Rights (Articles 2, 3, 4 and 8)
- Refugee or Person in Need of International Protection (Qualification) Regulations 2006
- Home Office Policy on discretionary leave / compelling compassionate circumstances
- EU Convention recovery and reflection temporary stay period

### ***The Refugee Convention***

The Refugee Convention offers victims of trafficking the greatest protection that they can expect to access in the UK. Therefore, consideration should always be given first to whether they are capable of qualifying under the said convention. If they are then they can expect to be granted 5 years' leave as a refugee. If however, there is very good evidence that a grant of limited leave, as opposed to indefinite leave, would have a



detrimental impact on the individual's ability to recover, then consideration should be given as to whether this should be challenged. When preparing a case for a victim of trafficking under the Refugee Convention the following factors should be given due consideration:

### ***Credibility***

The client's credibility will be critical to the success of her or his claim. There are two key elements to consider when assessing a client's credibility: plausibility and consistency. Detailed instructions will need to be sensitively taken from victims of trafficking. Representatives should bear in mind that victims of trafficking may well be suffering from trauma related conditions and so may find it difficult to recall events with consistency and/or detail. If the individual is not in a fit state to provide instructions or recalling their traumatic experience may cause further harm, then representations should be made to the Home Office / AIT for an extension of time on medical grounds. Such an application should be supported by evidence from a medical practitioner concerned for the client's welfare. Wherever possible, detailed witness statements should be drafted to address as a minimum the following:

- the profile and life of the individual prior to being approached by the trafficker;
- full details of the initial approach or recruitment by the trafficker;
- details of expectations and reasons for agreeing to travel to the UK;
- details of any means of deception and / or coercion employed;
- instructions on the network of persons used to transport, transfer, harbour and receive the individual;
- the form(s) of exploitation / persecution the individual was subjected to;
- the impact this had / has on the individual;
- current well being;
- who and what they fear would happen if returned; and
- on return, can they expect any assistance from family or friends.

As with other asylum and human rights cases, supplementary to the evidence of the client it will be of utmost importance that expert evidence, be that from country experts, police officials or medical practitioners, is adduced to support the client's credibility and risk on return. It may be worth considering commissioning reports from the following sources:

### ***Research and Information Unit (RIU)***

The IAS Research and Information Unit (RIU) has strong experience and expertise in providing country research on trafficking cases. The services of the RIU are available to both IAS caseworkers and external organisations. The RIU may also be able to sign post you to experts that could assist further.

### ***Medical / Psychological experts***

Medical / psychological reports are able to support a client's claim of having been abused. In addition, medical/psychological reports provide expert opinion on the impact of returning an individual, the need for a reflection period, the need for time to recover



from the influence of the trafficker and the need for security (of status) to enable recovery. Medical reports can also explain a client's difficulties in providing a detailed and consistent account of their experience.

### ***Country experts***

Country experts are able to comment on: the reach of the traffickers, the sufficiency of protection available on return, the profile of persons at risk of being trafficked, the risk of re-trafficking / persecution owing to escape or contact with the authorities and societal harassment / ostracism in the country of origin. Moreover, country experts are also able to comment on the consistency of a client's account with known country conditions. Please refer to Part 8 of the toolkit for a list of country experts.

### ***Police / Crown Prosecution Services***

The Police and/or the Crown Prosecution Service can provide evidence of the assistance that the individual has given in any criminal investigation / prosecution and also, statistics regarding the number of reported cases of trafficking against the prosecution rate.

### ***Other evidence***

Family and friends, abroad or in the UK, may be able to provide evidence (e.g. witness statements) to corroborate a client's account. You should also contact support agencies in contact with your client in the UK and who may be able to provide useful evidence in your client's case.

### **Real risk of future persecution:**

#### ***The threshold of persecution***

The threshold of persecution under the Refugee Convention and under Article 3 can be considered to be equivalent. While there is no simple definition of persecution, the Refugee of Person in Need of International Protection (Qualification) Regulations 2006 provides useful clarification as to what constitutes an act of persecution. Rule 5 (1) (a) identifies that an act of persecution must be:

*'... (a) sufficiently serious by its nature or repetition as to constitute a severe violation of a basic human right, in particular a right from which derogation cannot be made under Article 15 of the Convention for the Protection of Human Rights and Fundamental Freedoms; or*

*'5 (1) (b) an accumulation of various measures, including a violation of a human right which is sufficiently severe as to affect an individual in a similar manner as specified in (a).*

The Refugee Qualification Regulations also provide examples of forms of persecution that include:

*'5 (2) (a)... an act of physical or mental violence, including an act of sexual violence...'*



A 20% risk of being re-trafficked of course converts to a “real risk” in Convention terms.

It is important to emphasize that a single act of exploitation may constitute an act of persecution. As far as possible, it will be important to build a detailed picture of all previous ill treatment or threats. However, as the Refugee Convention and the ECHR are both forward looking treaties, the focus of the representations should be on the future risk of persecution and inhuman or degrading treatment upon return. Victims of trafficking may be at risk on return for the following reasons:

### ***Re-trafficking***

At Para 178, Parliament’s Joint Committee on Human Rights noted evidence that:

*‘...there is a high vulnerability to re-trafficking when people are returned from the UK. Approximately 20 per cent of the women that they [the Poppy Project, a UK-government-funded agency supporting trafficked women] have been supporting find they are re-trafficked. In one case a person was resold by her family within three days of being returned so there is certainly evidence emerging in returns specifically from the UK where re-trafficking is a big problem.’*

In each case it will be important to provide evidence of the risk of being re-trafficked. The reach of the trafficking network should be investigated as should the trafficking statistics and the profile of the potential victims in the country of origin. Representatives should not assume that the previous experiences of the victim will be sufficient to persuade the Home Office of Asylum and Immigration Tribunal that the individual would be at risk of being re-trafficked. That said, paragraph 339K of the Immigration Rules provides that:

*‘The fact that a person has already been subject to persecution or serious harm, or to direct threats of such persecution or such harm, will be regarded as a serious indication of the person’s well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated.’*

When assessing the actual impact of being trafficked it is helpful to consider not just the end form of exploitation, but also at the risks during traveling, the conditions of housing, psychological impact and restrictions of individual freedoms. In view of the serious human rights violations usually involved, re-trafficking would usually amount to persecution.

### ***Reprisals***

The reach of the trafficking network should again be thoroughly be researched in order to assess the risk of reprisals. Traffickers may seek to punish victims for escaping their slavery. The loss of revenue may be a concern for traffickers, who may use the victim’s failure to pay off ‘debts’ as an excuse to exact further ill treatment. Alternatively, a



victim's (perceived) co-operation with the authorities may heighten the risk from traffickers on return. This is an important consideration and evidence from the police or Crown Prosecution Service may be sought to strengthen this element of an individual's case.

### ***Medical / Psychological Impact***

Article 13 of the EU Convention stipulates that where there are '*...reasonable grounds to believe that the person concerned is a victim*' they should be entitled to a recovery and reflection period of at least 30 days. Article 13 goes on to state that '*Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers*' When considering the risk on return to a victim of trafficking it is important to assess the medical and / or psychological impact of returning someone suffering from trauma or another form of ill health to the place where their ill treatment began and their persecutors reside. It may be worthwhile instructing a medical practitioner to assess the impact of returning your client to such a situation. It may well be possible to advocate that the individual's return would place them in an intolerable situation or that their recovery period should be extended beyond the 30 day minimum.

### ***Societal exclusion / harassment***

It may be that your client fears being harassed by the community / society s/he comes from on return. This could be for a variety of factors, including the experiences that s/he has been through. Detailed instructions will be required on this issue and these may well need to be supplemented by an expert report on the societal exclusion, ostracism, harassment and persecution that the individual may face if returned. The UNHCR Handbook states at paragraph 65:

*'...Where serious discriminatory or other offensive acts are committed by the local populace, they can be considered as persecution if they are knowingly tolerated by the authorities, or the authorities refuse, or prove unable, to offer effective protection.'*

### **Place of Persecution**

The location where the persecution takes place is a crucial aspect of asylum claims. In trafficking cases victims tend to be exploited mainly outside of their country of origin. While victims of trafficking may not have left their country owing to a well-founded fear of persecution, such a fear may have developed after leaving their country of origin. Trafficking cases therefore tend to be *sur place* claims.

### **Convention Reasons**

An individual may be targeted by a trafficker for persecutory reasons related to their race, religion, nationality or political opinion. Alternatively, one or more of the above reasons may have a bearing on their vulnerability and potentially how much they are in demand by traffickers. While each of the above convention reasons should be considered, membership of a particular social group (PSG) is perhaps the most probable convention



reason that a victim of trafficking can qualify under. As with other asylum cases, demonstrating that an individual qualifies under this convention reason is not always straight forward. For this reason further discussion is provided on this matter.

### **Membership of a particular social group (PSG)**

In the landmark judgement in Shah and Islam [1999] INLR 144 HL, the House of Lords approved the following definition of particular social group: *'...we interpret the phrase persecution on account of membership of a "particular social group" to mean persecution that is directed towards an individual who is a member of a group of persons all of whom share a common, immutable characteristic. The shared characteristic might be an innate one, such as sex, colour or kinship ties, or in some circumstances it might be a shared past experience, such as former military leadership or land ownership. The particular characteristic that will qualify under this construction remains to be determined on a case by case basis...'*

The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 (SI 2525/2006) contains the following definition of *'particular social group'*:

*'6 (1) (d) ...a group shall be considered to form a particular social group where, for example:*

*(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and*

*(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society...'*

However, in K and Fornah v SSHD [2006] UKHL 46 at paragraph 16, Lord Bingham challenged the requirement to satisfy both of the above criteria stating, *'...in my opinion it propounds a test more stringent than is warranted by international authority.'* He concluded that what might be termed the *'innate characteristic'* and *'different perception'* tests ought to be alternatives.

#### ***Innate characteristic assessment***

In attempting to demonstrate that a person does qualify under PSG it is essential to try to clearly establish the profile of the (potential) victim, the factors that may have influenced them to be targeted initially and the factors that would on return cause them to be at risk of persecution. At a minimum, the following should factors should be considered when assessing the profile of the individual: sex, age, family context, social status, economic status, religion, ethnicity, clan affiliation, language, occupational status, sexuality, physical appearance and disability.

#### ***Differently perceived***



It is important to try to get inside the mind of the trafficker so as to understand why their victim was / will be targeted. It is also important to assess why that person would be of particular interest to the trafficker. It may be helpful to view the trafficker not only as a persecutor, but as a business person. Bearing in mind the profit motivation behind the trafficking offence may help to understand the market / demand for the victim and thereby assisting in the assessment of their profile and PSG. Identifying the societal attitudes in the victim's country of origin towards persons with their particular profile will be crucial in trying to demonstrate that an individual is differently perceived and as such a member of a PSG. If that society recognises them as being set apart because of their sex, age, socio-economic status, or past experiences then that person may well qualify.

It is important to remember that, while an individual may not initially have been targeted because of their PSG, as the Convention is forward looking, their experiences as a victim may well mean that they could come under the ambit of PSG.

*'...while persecutory conduct cannot define the social group, the actions of the persecutors may serve to identify or even cause the creation of a particular social group in society'* Applicant A (1997) 190 CLR 225, 264

Importantly, *'An applicant need not demonstrate that all members of a particular social group are at risk of persecution in order to establish the existence of a particular social group.'* Furthermore, *'...there is no requirement that the group be 'cohesive'. The relevant inquiry is whether there is a common element that the group members share.'*<sup>71</sup>

Therefore, when assessing whether someone is a member of a PSG the following questions should be asked:

- 1) What is the PSG – how is it defined?
- 2) Does this group have an identity in the country of origin in the eyes of: the community at large and / or the persecutors?
- 3) Do the members of this group have a shared immutable characteristic or are they differently perceived?

### **Women trafficked for sexual exploitation**

A significant proportion of victims of trafficking are sexually exploited. While it is still by no means straight forward, women victims of sexual exploitation are more easily attributed a PSG than other victims of trafficking, for example Chinese men trafficked to the UK and forced to pick cockles. Baroness Hale observed at paragraph 86 of K and Formah [2006] UKHL 46 that, *'...the world has woken up to the fact that women as a sex may be persecuted in ways which are different from the ways in which men are persecuted and that they may be persecuted because of the inferior status accorded to*

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<sup>71</sup> The UNHCR Guidelines on International Protection, 7 May 2002, para 17,  
<http://www.unhcr.org/publ/PUBL/3d58ddef4.pdf>



*their gender in their home society. States Parties to the Refugee Convention, at least if they are parties to the International Covenant on Civil and Political Rights and to the Convention on the Elimination of All Forms of Discrimination against Women are obliged to interpret the Refugee Convention compatibly with the commitment to gender equality in those instruments.'*

While at paragraph 37 of R (Hoxha) v Special Adjudicator [2005] UKHL 19 Baroness Hale stated, '*...women who have been victims of sexual violence in the past are linked by an immutable characteristic which is at once independent of and the cause of their current ill-treatment. They are certainly capable of constituting a particular social group under the Convention...*'

The Gender Issues in the Asylum Policy Instructions of October 2006 state: '*That a woman has been trafficked for sexual exploitation is not, in itself, a ground for refugee status. However, some trafficked women may be able to establish a Convention reason and have valid claims to refugee status.*' While it cannot be the sole defining characteristic, past experiences of trafficking could constitute one of the elements in defining a particular social group.

### **Sufficiency of protection**

In addition to demonstrating that your client is at risk if returned to their country of origin, it is also essential to show that they cannot rely upon the protection available in their home country. The key issue here is whether or not the authorities and / or civil society organisations are willing and capable of providing sufficient protection and provisions for recovery.<sup>72</sup> The very fact that the individual was trafficked in the first place should be the starting point for arguing that state protection is inadequate. However, representatives will need to go beyond this to demonstrate a future risk of ill treatment owing to an insufficiency of protection.

When assessing the protection available, it is important to look beyond the existence of government policy, a police programme or a rehabilitation initiative. Questions will need to be asked about how individuals' access protection, the capacity of authorities and civil society organisations and their track record in preventing trafficking and providing adequate protection. Obtaining statistics and expert evidence on the above matters should definitely be considered. The Home Office's own Gender guidelines have helpfully identified the following situations where there may be a failure of state protection:

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<sup>72</sup> It is worth noting that according to Article 4 of the Refugee or Person in Need of International Protection (Qualification) Regulations 2006, protection from serious harm or persecution can be provided by a) the State; or b) any party or organisation, including any international organisation, controlling the State or a substantial part of the territory of the State. Moreover, according to Article 4 (2), "Protection shall be regarded as generally provided when the actors mentioned in paragraph (1) (a) and (b) take reasonable steps to prevent the persecution or suffering of serious harm by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the person mentioned in paragraph (1) has access to such protection."



*'...lack of police response to pleas for assistance and / or reluctance or failure to investigate, prosecute or punish individuals...'*

### **Internal Relocation**

The Refugee Convention offers international surrogate protection to those unable to access protection from their country of origin. Accordingly, paragraph 339 O of the Immigration Rules states:

*(i) The Secretary of State will not make:*

*(a) a grant of asylum if in part of the country of origin a person would not have a well founded fear of being persecuted, and the person can reasonably be expected to stay in that part of the country;*

*or*

*(b) a grant of humanitarian protection if in part of the country of return a person would not face a real risk of suffering serious harm, and the person can reasonably be expected to stay in that part of the country.*

*(ii) In examining whether a part of the country of origin or country of return meets the requirements in (i) the Secretary of State, when making his decision on whether to grant asylum or humanitarian protection, will have regard to the general circumstances prevailing in that part of the country and to the personal circumstances of the person.*

*(iii) (i) applies notwithstanding technical obstacles to return to the country of origin or country of return*

Unless there is good evidence that the authorities have been complicit in the crime of trafficking, whether the victim could internally relocate is likely to be an issue. On this matter, the reach of the trafficking network will need to be investigated.

When considering the issue of internal relocation, the safety of the individual and the reasonableness of relocation are the two primary issues. In the case of AH (Sudan) [2007] EWCA Civ 297, the Court of Appeal clarified in simple and unambiguous terms, the test to be applied in considering whether internal flight is a reasonable option for someone who fears persecution in their home area. According to the Court of Appeal, the conditions in the potential place of relocation do not have to meet the Article 3 threshold in order to be unreasonable/unduly harsh. The comparison must be between the place of habitual residence and the place of relocation rather than, as the Asylum and Immigration Tribunal found, between the place of relocation and the worst place on earth. The



following test was put forward by the Court of Appeal in AH (Sudan) [2007] EWCA Civ 297 as being the correct test when considering the reasonableness of internal relocation:

*24. It is therefore not surprising that in E the basic issue as to internal relocation was stated in terms of a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the "safe haven", having regard to the impact that they will have on a person with the characteristics of the asylum seeker. Much of E was taken up with the issue of whether the mere absence in the area of relocation of access to basic norms of civil, political and socio-economic human rights deprived that area of relevant safe haven status; a proposition that this court rejected. But the court gave plenty of indications of what the general approach to internal relocation should be. Thus in §§ 23-24 Lord Phillips of Worth Matravers MR said:*

*Relocation in a safe haven will not provide an alternative to seeking refuge outside the country of nationality if, albeit that there is no risk of persecution in the safe haven, other factors exist which make it unreasonable to expect the person fearing persecution to take refuge there. Living conditions in the safe haven may be attendant with dangers or vicissitudes which pose a threat which is as great or greater than the risk of persecution in the place of habitual residence. One cannot reasonably expect a city dweller to go to live in a desert in order to escape the risk of persecution. Where the safe haven is not a viable or realistic alternative to the place where persecution is feared, one can properly say that a refugee who has fled to another country is 'outside the country of his nationality by reason of a well-founded fear of persecution'.*

*24. If this approach is adopted to the possibility of internal relocation, the nature of the test of whether an asylum seeker could reasonably have been expected to have moved to a safe haven is clear. It involves a comparison between the conditions prevailing in the place of habitual residence and those which prevail in the safe haven, having regard to the impact that they will have on a person with the characteristics of the asylum seeker. What the test will not involve is a comparison between the conditions prevailing in the safe haven and those prevailing in the country in which asylum is sought.*

### **Human Rights Arguments**

When ever possible, representatives should advocate that victims of trafficking are eligible for the superior protection afforded by the Refugee Convention. However, such cases should also be presented as qualifying for protection under the ECHR. This will be particularly important where it is difficult to establish a convention reason for the persecution feared. Representatives may wish to consider making (some of) the following human rights arguments.

#### ***Article 3 – Prohibition of torture***

*‘No one shall be subjected to torture or to inhuman or degrading treatment or punishment.’*



Where a client cannot establish that they fear persecution for reasons of a convention reason, representatives should investigate whether the persecution feared would represent a breach of the individual's article 3 rights. Essentially, the case should be developed using the same approach for an asylum case. The two principle differences are that, firstly it is not necessary to establish a convention reason for persecution under the ECHR. Secondly, unlike the Refugee Convention, the ECHR has no exclusion clauses. Therefore, your client can qualify under the ECHR even if they have committed serious crimes. In line with article 15 of the same convention, article 3 is an absolute right. Therefore if it is possible to establish that your client would be at risk of being '*subjected to torture or to inhuman or degrading treatment or punishment*', then they can expect to be granted humanitarian protection for 5 years. As a minimum, they will be granted a period of Discretionary Leave if excluded, for any reason, from Humanitarian Protection.

#### **Article 4 – Prohibition of slavery and forced labour**

*'1 No one shall be held in slavery or servitude.*

*2 No one shall be required to perform forced or compulsory labour.*

*3 For the purpose of this article the term "forced or compulsory labour" shall not include:*

*a any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;*

*b any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;*

*c any service exacted in case of an emergency or calamity threatening the life or well-being of the community;*

*d any work or service which forms part of normal civic obligations.'*

While articles 3 and 8 are the most commonly used articles in human rights cases representatives should not be deterred from using other rights in the ECHR to bolster their client's case. As with article 3, Article 4 (1) is also an absolute right against which no derogation is permissible. The authorities have a positive obligation therefore not only to protect individuals from torture or to inhuman or degrading treatment or punishment but also from slavery and servitude. While there may be overlap with article 3 rights, the prohibition against slavery and servitude may serve to bolster arguments regarding the future risk of re-trafficking. Similarly, representatives should consider whether return might lead to a fundamental breach of the individual's article 5 right to '*...to liberty and security of person.*'



### **Article 8 – Right to respect for private and family life**

*1 Everyone has the right to respect for his private and family life, his home and his correspondence.*

*2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*

Representatives should reflect on whether returning a victim of trafficking would involve a breach of their article 8 rights. It is possible that an individual will have developed significant ties in the UK and as such may enjoy a private and / or family life. Where this is the case instructions should be taken regarding the nature of (familial) relationships and other ties such as social / religious / support groups attended and the reasons why these could not be enjoyed in their country of origin. When considering whether the return of an individual would involve a breach of their right to family life, representatives should refer to the case of Huang v Secretary of State for the Home Department [2007] UKHL 11. Paragraph 20 of this case states:

*‘...whether the refusal of leave to enter or remain, in circumstances where the life of the family cannot reasonably be expected to be enjoyed elsewhere, taking full account of all considerations weighing in favour of the refusal, prejudices the family life of the applicant in a manner sufficiently serious to amount to a breach of the fundamental right protected by article 8. If the answer to this question is affirmative, the refusal is unlawful and the authority must so decide.’*

It is in only exceptional circumstances that Article 8 rights can be used to prevent the removal of a person on account of the risk to them upon return. However, trafficking cases often present exceptional circumstances and so article 8 arguments are worth pursuing. In order to establish whether or not an individual’s article 8 rights would be violated if returned, the following test, set out in Razgar v SSHD [2004] UKHL 27 at [17], should be followed:

*‘In a case where removal is resisted in reliance on article 8, [the relevant] questions are likely to be: (1) will the proposed removal be an interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family life? (2) If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8? (3) If so, is such interference in accordance with the law? (4) If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others? (5) If so, is such interference proportionate to the legitimate public end sought to be achieved?’*



Victims of trafficking may well suffer from trauma related illnesses or other medical conditions on account of their experiences. Where returning an individual would have a considerably detrimental impact on their health or emotional / psychological well being, it may be possible to advance arguments that this action would breach their right to private life. Alternatively, it is quite conceivable that a victim of trafficking could experience considerable harassment and social exclusion in their home country. Where this is likely to be the case it is again worth giving thought to whether their return would constitute a violation of their right to private life. In assessing the likely impact to an individual upon return, the availability of medical care, family support and the prospects of reintegrating into society should be assessed. In the case of Bensaid v the UK the European Court of Human Rights stated:

*46. Not every act or measure which adversely affects moral or physical integrity will interfere with the right to respect to private life guaranteed by Article 8. However, the Court's case-law does not exclude that treatment which does not reach the severity of Article 3 treatment may nonetheless breach Article 8 in its private-life aspect where there are sufficiently adverse effects on physical and moral integrity...*

*47. "Private life" is a broad term not susceptible to exhaustive definition. The Court has already held that elements such as gender identification, name and sexual orientation and sexual life are important elements of the personal sphere protected by Article 8...Mental health must also be regarded as a crucial part of private life associated with the aspect of moral integrity. Article 8 protects a right to identity and personal development, and the right to establish and develop relationships with other human beings and the outside world...The preservation of mental stability is in that context an indispensable precondition to effective enjoyment of the right to respect for private life.*

Unlike articles 3 and 4 (1), article 8 is a qualified right. Practically this means that an assessment is required of whether the potential breach of this right would be proportionate taking into account all other considerations. Regarding the issue of proportionality, in the case of GS (Article 8 – public interest not a fixity) Serbia and Montenegro [2005] UKAIT 00121 the Tribunal noted that:

*'11. [... A] balancing exercise must always involve looking at both sides of the scale: looking at the public interest as well as the appellant's interests. Secondly, it must be borne in mind that on both side of the scales to be considered in any individual case there will be some variation in the relevant factors and circumstances. Certainly the Immigration Rules reflect the fact that the interests of the Secretary of State in the maintenance of immigration control are weighty in the general run of cases, but neither Razgar nor Huang are authority for the proposition that the public interest is a fixity or that there is a fixed weight to be accorded to the interests of the state in the effective maintenance of immigration control. [...]*

*12. In our view it is common sense that the extent of the public interest may vary in cases which fall outside the normal or the "general run". Depending on the particular*



*circumstances of a case it may be a relevant factor that the state has seen an individual to fall within a particular category of persons deserving of a grant of limited leave on exceptional grounds or for reasons of extra-statutory policy. Considering appeals on a “case by case” basis, as Razgar enjoins, would be meaningless if [...] the interests of a state in the effective maintenance of immigration control were unfailingly a “trump card” because it always had a fixed weight.’*

The Home Office may well advocate that the need to maintain a robust system of immigration control outweighs the article 8 rights of the individual. The Home Office may also use previous immigration or other criminal offences to advocate that the individual’s removal would be conducive to the public good. Many victims of trafficking become embroiled in criminal activities, such as credit card fraud. Where clients have undertaken criminal activities, it will be important to take instructions from them on whether these activities were the result of coercion.

Article 1 of the COE Convention identifies the linked purposes of the convention as being to

*‘...b. to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, guaranteeing gender equality, and ensure effective investigation and prosecution’*

It must surely be in the public interests of society to ensure that victims of trafficking are cared for. Beyond this, it could well be argued that it is in the public interest to support victims of trafficking in order to enable them to take part in investigations and prosecutions (it is no use having a line up when the sole witness has been removed). If an individual is willing to give evidence against a trafficker, and assuming the police intend to pursue the matter, it may well be worth requesting that the police provide evidence regarding their co-operation and their ongoing value as a witness. Similarly, the Crown Prosecution Service may be able to assist by requesting a temporary residence permit in order to enable the individual to assist with a prosecution. This exercise is supported by article 14 of the COE Trafficking Convention.

### **Discretionary Leave**

The Home Office’s policy on Discretionary Leave stipulates that *‘...there remains scope to grant Discretionary Leave where individual circumstances, although not meeting the criteria of any of the other categories [in the policy], are so compelling that it is considered appropriate to grant some form of leave’* (API on Discretionary Leave, Para 2.5). Whilst the Home Office’s Immigration Directorate Instructions also offer the alternative of granting leave to remain outside of the Immigration Rules *‘...for genuinely compassionate and circumstantial reasons, or where it is deemed absolutely necessary to allow someone to enter/remain in the UK, when there is no other available option’*. (Chapter 1, Section 14, Para 2.2)



Victims of trafficking may often be considered to have compelling compassionate circumstances. Therefore, supplementary to asylum and humanitarian status, representatives should advocate that in the alternative victims are granted discretionary leave.

### **Temporary Leave**

Article 13 of the EU Convention proposes a temporary recovery and reflection period for victims. While this article only offers as a minimum 30 days, representatives should consider advocating that this should be extended to enable an individual sufficient time to ‘...to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities.’ On this point expert opinion should be sought from medical and psychological experts on just how long would be required for recovery, escaping the traffickers’ influence and having the presence of mind to make an informed decision regarding co-operation with the authorities. It is noteworthy that the EU Council Directive 2004/81/EC allows residence permits for 6 months to be issued to third country nationals who are victims of trafficking, provided they co-operate with authorities. However, the UK has opted out of this directive.

### **Other bases for remaining in the UK**

EU Treaty/Immigration Rules: It is also of course possible that your client may have the right to remain in the UK as an EU national, or under other categories of the Immigration Rules.

### **Prosecution of trafficking victims for immigration offences**

Various NGOs in the UK have expressed concern over the prosecution of trafficking victims for immigration offences. Prosecution for immigration offences generally takes place pursuant to s.2 of the Asylum and Immigration (Treatment of Claimants) Act 2004. Trafficking victims are prosecuted despite the fact that the circumstances of their case are likely to constitute a reasonable defence to entering or leaving the UK without the requisite documentation. In its UK Action Plan, the Home Office “acknowledge that there have been cases where victims of trafficking have faced charges under immigration legislation for offences committed whilst in a coerced situation and this is largely due to a lack of awareness and identification. The increased awareness raising, guidance and training will reinforce the message that victims of trafficking should not be treated as immigration offenders, which will hopefully lead to a decrease in these incidents.”<sup>73</sup>

According to Asylum Aid “[k]nowing that they are guilty of a criminal offence for which they have to provide a defence, is likely to prevent victims seeking protection from the police ...The police or other authorities coming into contact with victims should inform them of their right to claim asylum if they fear re-trafficking or any form of persecution if

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<sup>73</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Immigration Offences



they are returned to their country of origin.”<sup>74</sup> Noting that it is “difficult to envisage circumstances where it would be in the public interest to prosecute genuine victims of trafficking for immigration offences”, the Home Office further observe that “[i]f a victim of trafficking is charged with an immigration offence that is a direct result of their coerced or forced situation, it is within the Crown Prosecution Service’s (CPS) power to consider discontinuing the case on public interest grounds. Guidance has been issued to prosecutors to raise awareness of the presumption that the CPS should intervene if it is brought to their attention that a victim of trafficking, who is assisting the police with a prosecution, may have been mistakenly charged with an immigration offence. In incidents where a victim of trafficking may have been identified but the trafficking case has not yet been referred to the CPS (because suspects have not yet been located, arrested or charged) then the investigating authorities should contact the prosecutor from the CPS office dealing with the immigration case and provide information for the prosecutor to review whether it is appropriate to drop the immigration charges.”<sup>75</sup>

The role of the Prosecutor in relation to deciding that prosecution of trafficking victims is not in the public interest was also emphasised by the Director of Public Prosecutions, Sir Ken MacDonald QC at a meeting of the All Party Parliamentary Group on Trafficking on 16 July 2007.

Identification of trafficking victims by frontline staff is key in ensuring that victims of trafficking are not prosecuted for immigration offences.

### **ANNEX 1 - The Legal Protection Environment:**

The UK legal protection environment for victims of trafficking:

#### **Immigration Rules:**

<http://www.ind.homeoffice.gov.uk/lawandpolicy/immigrationrules/part11>

Representatives will, no doubt, be fully familiar with Section 11 of the Immigration Rules regarding the criteria for the grant of asylum (rule 334) and grant of humanitarian protection (rule 339C) and The Refugee or Person in Need of International Protection (Qualification) Regulations 2006 <http://www.opsi.gov.uk/si/si2006/20062525.htm>, which has been incorporated into the Immigration Rules.

#### **UK Caselaw**

[HL \(Risk –Return - Snakeheads\) China CG \[2002\] UKIAT 03683](#)

[SK \(prostitution\) Albania UKIAT \[2003\] 00023](#)

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<sup>74</sup> Asylum Aid, Submission to the Joint Committee on Human Rights Inquiry into the Human Rights of People Trafficked into the UK, 13/01/2006

<sup>75</sup> Home Office, UK Action Plan on Tackling Human Trafficking, 03/2007 Immigration Offences



VD (Trafficking) Albania CG [2004] UKIAT 00115

MP [Trafficking – Sufficiency of Protection] Romania [2005] UKIAT 00086

JO [internal relocation – no risk of re-trafficking] Nigeria [2004] UKIAT 00251

P & M [2004] EWCA Civ 1640

RG (Ethiopia) EWCA [2006]

### **The Criminalisation of trafficking under UK legislation:**

#### **Immigration, Asylum and Nationality Act 2006**

This act makes knowingly employing an illegal worker an offence punishable by a prison term of not more than two years and/or a fine.

[http://www.opsi.gov.uk/ACTS/acts2006/ukpga\\_20060013\\_en.pdf](http://www.opsi.gov.uk/ACTS/acts2006/ukpga_20060013_en.pdf)

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

Section 4 of this act makes trafficking for all forms of labour exploitation an offence punishable by imprisonment for a term not exceeding 14 years and/or to a fine.

<http://www.opsi.gov.uk/acts/acts2004/20040019.htm>

#### **Gangmasters (Licensing) Act 2004**

This act came into force as a result of the Morecombe Bay disaster. It established a system for registering labour providers and provides penalties for offences such as possession of another person's false documentation. The maximum sentence under this act is 12 months.

<http://www.opsi.gov.uk/ACTS/acts2004/20040011.htm>

#### **Sexual Offences Act 2003**

Sections 57 and 58 of this act criminalizes the facilitation of another person into, within or from the UK with the intent of committing another offence under the act. The trafficking of persons for sexual exploitation under this act is punishable by a maximum sentence of 14 years.

<http://www.opsi.gov.uk/ACTS/acts2003/20030042.htm>

### **European Legislation**

#### **The Council of Europe Convention on Action Against Trafficking in Human Beings, 2005**

[http://www.coe.int/T/E/human\\_rights/trafficking/PDF\\_Conv\\_197\\_Trafficking\\_E.pdf](http://www.coe.int/T/E/human_rights/trafficking/PDF_Conv_197_Trafficking_E.pdf)

This Treaty opened for signature in May of 2005. The UK has recently added its signature to a list of over 30 other European Member States that have signed for the



Convention. However, to date, there have only been 7 countries that have ratified this Convention. For the Convention to enter into force there is a requirement for 10 ratifications.

The EU Convention considers the consent of an individual to be irrelevant in determining whether they are a victim of trafficking. (Article 4 b) It prohibits the removal of an individual suspected of being a victim until the identification process has been completed (article 10). When the age of an individual is uncertain, where there are reasons to believe that the victim is a child they shall be treated as such pending verification of their age. (Article 10)

The EU Convention requires each state to adopt legislation or other measures to ‘...assist victims in their physical, psychological and social recovery..’ (Article 12) and importantly requires states to provide in law for a ‘...recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim.’ This period must be ‘...sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities.’ This Convention provides that ‘...During this period it shall not be possible to enforce any expulsion order against him or her...’ (Article 13) Article 26 provides for the possibility of not penalising victims of trafficking for their coerced involvement in illegal activities.

### **European Convention on Human Rights 1950**

<http://www.echr.info/>

A number of articles of the ECHR should be considered when building a legal case for a victim of trafficking, such as:

- Right to life Article 2
- Prohibition against inhuman degrading treatment or torture (Article 3)
- Prohibition of slavery and forced labour (Article 4)
- Right to liberty and security (Article 5)
- Right to family and private life (Article 8)
- Prohibition of discrimination (Article 14)

### **International Legislation:**

#### **The Convention Relating to the Status of Refugees (1950)**

<http://www.ohchr.org/english/law/refugees.htm>

#### **The Convention on the Rights of the Child (1989).**

<http://www.unhcr.ch/html/menu3/b/k2crc.htm>

The UK has entered a reservation under this Convention ‘...to apply such legislation, in so far as it relates to the entry into, stay and departure from the UK of those who do not



*have the right under the law of the UK to enter and remain in the UK and to the acquisition and possession of citizenship, as it may deem necessary from time to time.'* Nevertheless, the following articles may be of some persuasive authority:

- A child is defined as a person under 18 (Article 1).
- In all actions concerning children the best interests of the child shall be a primary consideration (Article 3).
- Refugee Children should receive the appropriate rights within this Convention (Article 22)
- The right of the child to be protected from economic exploitation and from performing any hazardous work (Article 32).
- Protection of children from all forms of sexual exploitation and sexual abuse (Article 34).
- Prevention of the abduction of, the sale of or traffic in children for any purpose or in any form (Article 35).

**The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979**

<http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>

**Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

**The Protocol to Prevent, Suppress and Punish Trafficking in Persons supplementing the UN Convention against Transnational Organised Crime of 2000**

<http://untreaty.un.org/English/TreatyEvent2003/Texts/treaty2E.pdf>

The Palermo Protocol focuses on the prevention of Trafficking, the prosecution of Traffickers and the protection of those who have been or could be trafficked with full respect for their human rights. The Protocol also promotes cooperation between member states in their response to human trafficking.

Signed by the UK in 2000 and ratified in 2006.

**Universal Declaration on Human Rights (1948)**

<http://www.un.org/Overview/rights.html>

**Article 4**

*'No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.'*

**Article 5**

*'No one shall be subjected to torture or to cruel; inhuman or degrading treatment or punishment.'*



## **International Covenant on Economic, Social and Cultural Rights 1966**

[http://www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm)

### **Article 6**

*(1) The States Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right...*

### **Article 7**

*The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:*

- (a) Remuneration which provides all workers, as a minimum, with:*
  - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work.*
  - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
  - (iii) Safe and healthy working conditions;*
  - (iv) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
  - (v) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*



## **7. Exploring the option of voluntary return**

Although trafficking is a traumatic experience, its aftermath can be equally traumatic for a victim. The aftermath of trafficking involves victims of trafficking dealing with a variety of agencies including, the police, the immigration service, health practitioners and various support services. Some victims of trafficking may therefore consider returning home. Should a victim of trafficking choose to return home voluntarily, the International Organisation for Migration provides various programmes including an Assisted Voluntary Return for Irregular Migrants Programme. Please see below for further details relating to voluntary return programmes sponsored by IOM.

### **Voluntary Assisted Return and Reintegration Programme - VARRP**

Under VARRP, IOM offers assistance to asylum seekers who wish to return permanently to their home country. The VARRP is open to asylum seekers of any nationality, whose asylum claim is under one of the following criteria:

- Waiting for a Home Office decision
- Refused by the Home Office
- Appealing against the asylum decision
- Withdrawn asylum application
- Given ELR (Exceptional Leave to Remain)

The duration of the voluntary return process depends on factors such as, accessing travel documentation, obtaining Home Office approval, availability of flights and specific needs of the returnee that need to be taken into account when contemplating return.

The VARRP pack can be downloaded at: <http://www.iomlondon.org/varrp.htm>

The VARRP application form can be downloaded at:

<http://www.iomlondon.org/doc/varrp/VARRP%20Application%20Form.pdf>

### **Unaccompanied Asylum Seeking Children (UASC)**

VARRP is also available to UASC who wish to return to their country of origin. The VARRP UASC application form can be accessed at:

<http://www.iomlondon.org/doc/varrp/VARRP%20Children.pdf>

### **Assisted Voluntary Return for Irregular Migrants – AVRIM**

The International Organisation for Migration (IOM) operates the Assisted Voluntary Return for Irregular Migrants – AVRIM. IOM intends AVRIM to complement the existing voluntary return programmes by making it accessible to “Irregular Migrants”. According to IOM, irregular migrants are those who are in the UK without legal documentation including those who might have been smuggled or trafficked into the UK or who have overstayed their visas.



In AVRIM cases, IOM can now assist with getting travel documentation, paying for flights home and assisting each returnee on the airport upon arrival and departure as well as assist with onward transportation to a returnee's home town if necessary.

AVRIM information leaflets are available in Albanian, French, Russian, Urdu, Hindi, English, Singhalese, Chinese, Portugese, Spanish and Thai and can be accessed at: <http://www.iomlondon.org/avrim.htm>

AVRIM application forms can be accessed at: <http://www.iomlondon.org/doc/avrim/AVRIM%20Application%20Form.pdf>

### **IOM London contact details**

Address: 21 Westminster Palace Gardens , Artillery Row, London SW1P 1RR

Website address: <http://www.iomlondon.org/>

Telephone number: 020 7233 0001 or free phone 0800 783 2332

### **British Red Cross family tracing and message services**

Whilst exploring the option of voluntary return, a prospective returnee may wish to contact his/her family with whom they may have lost contact as a result of being trafficked. In the event that a returnee wishes to make contact with his/her family but is unable to locate them, the British Red Cross international tracing and message services can assist with locating the family.

The British Red Cross family tracing and message services help with: (i) delivering family news internationally when normal means of communication have broken down due to war or disaster; (ii) handling applications for travel assistance from refugees in the UK for their close family members to be reunited with them in the UK; and (iii) helping to obtain confirmation of detention, where a person has been visited by the ICRC overseas. Information sheets about the Red Cross Tracing and Message Services are available in a variety of languages and can be accessed at:

<http://www.redcross.org.uk/standard.asp?id=42591&cachefixer=>

Address: 44 Moorfields, London EC2Y 9AL

Website address: <http://www.redcross.org.uk/standard.asp?id=3513&cachefixer=>

Telephone number: 0870170 7000



## 8. Directory of country-specific trafficking experts

### Albania

Name: Alex Standish

Occupation: Senior Research Fellow & Tutor, St Chad's College, University of Durham

Address: West View House, Station Street, Warehouses, Durham DH7 9AS

Email address: alex.standish@dur.ac.uk

Telephone number: 0191 373 9798

### Bangladesh

Name: Dr A. Yunas Samad

Occupation: Senior Lecturer, Department of Social Sciences, University of Bradford

Address: University of Bradford, Bradford, West Yorkshire, BD7 1DP

Email address: a.y.samad@bradford.ac.uk

Telephone number: 01274 384 804 (work); 01865 556 620 (home); and 07957 617 070 (mobile)

### China

Name: Dr Jackie Sheehan

Address: Institute of Contemporary Chinese Studies, Nottingham University, China House, Lenton Fields University Park, Nottingham, NG7 2RD

Occupation: Associate Professor in Contemporary Chinese Studies

Email address: J.Sheehan@nottingham.ac.uk

Telephone number: 0115 9515954

### India

Name: Dr A. Yunas Samad

Occupation: Senior Lecturer, Department of Social Sciences, University of Bradford

Address: University of Bradford, Bradford, West Yorkshire, BD7 1DP

Email address: a.y.samad@bradford.ac.uk

Telephone number: 01274 384 804 (work); 01865 556 620 (home); and 07957 617 070 (mobile)

### Lithuania

Name: Dr. Dalia Marcinkeviciene

Occupation: Head of Lithuanian Women's NGO "Praeities Pedos". The activities of the organization concentrate on academic and applied women's and gender studies. In 1998-1999 the NGO participated in the international project "Stop Trafficking", and prepared and published the study "Trafficking in Women", eds. D. Marcinkeviciene and R.



Praspaliauskiene (Vilnius, 104 pp). Current research projects: "Trafficking in Women in Lithuania", "Female Criminality: Past and Present", "Women Under Communism".

Address: Gedimino pr.46-6, 2600 Vilnius, Lithuania

Email address: dmarcinkeviciene@hotmail.com

Telephone number: 00 370 2 49 77 26

## **Moldova**

Name: La Strada (Moldova) attention of Daniela Misial-Nichitin and Viorelia Rusu

Occupation: The International Center "La Strada" is a part of the international network of Prevention of Trafficking in Women in Central and Eastern Europe that includes 9 organizations in 9 countries (that are the origin countries as well as the destination one) implementing the La Strada Program Prevention of Traffic in Women in Central and Eastern Europe (The Netherlands, Poland, Czech Republic, Bulgaria, Ukraine, Republic of Moldova, Byelorussia, Macedonia, Bosnia & Herzegovina).

Address: P.O. Box 259, Chisinau, Moldova 2012

Email address: [analytics@lastrada.md](mailto:analytics@lastrada.md) and [prevention@lastrada.md](mailto:prevention@lastrada.md)

Telephone number: 00 373 22 23 49 06

## **Nigeria**

Name: Bisi Olateru-Olagbegi LLB B.L MCI. Arb. (UK)

Occupation: Executive Director of Women's Consortium of Nigeria (WOCON)

Address: P.O. Box 54627, Ikoyi, Lagos, Nigeria

Email address: wocon95@yahoo.com

Telephone/fax number: 00 234 1 263 5300 or 00 234 1 263 5331

## **Thailand**

Name: ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) for the attention of Christine Beddoe, Director.<sup>76</sup>

Occupation: ECPAT are a leading children's rights organisation campaigning against the commercial sexual exploitation of children in the UK and on its international aspects. In particular, ECPAT's focus is the protection of trafficked children and children exploited in tourism and the prevention of such crimes.

Address: Grosvenor Gardens House 35-37 Grosvenor Gardens London SW1W 0BS

Email address: [info@ecpat.org.uk](mailto:info@ecpat.org.uk)

Telephone number: 0207 233 9887

## **Ukraine**

Name: "La Strada-Ukraine" International women's rights centre

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<sup>76</sup> Please note that owing to its close partnership with various partner organisations across the world, ECPAT is able to assist with reports relating to countries such as, Togo, Ghana and various eastern European countries. Please address all queries to Christine Beddoe at ECPAT UK.



Occupation: La Strada Ukraine are a non-governmental organization in Ukraine working to prevent trafficking in women and helping the victims of trafficking.

Address: PO Box 246, 01030 Kyiv, Ukraine

Email address: lastrada@ukrpack.net

Telephone number: 00 380 44 224 04 46

## **Uganda**

Name: Ms. Dora Kanabahita Byamukama, Law & Advocacy for Women in Uganda (LAW-U)

Occupation: LAW-U undertake research and document research findings. Make recommendations basing on research findings. Advocate and lobby the enactment of laws/revision of discriminatory laws. The research target audience consists of Policy makers, legislators, judiciary, law enforcement agencies, lawyers and human rights activists, Uganda Law Reform Commission, and researchers. Moreover, LAW-U is affiliated with Law and Advocacy for Women in Africa (LAWA); Uganda Women's Network (UWONET)

Address: Raja Chambers, Plot 3, Parliamentary Avenue P.O Box 25324, Kampala, Uganda

Email address: dorabyam@infocom.co.ug

Telephone number: 000 256 41 235 445

## **Vietnam**

Name: ECPAT UK (End Child Prostitution, Child Pornography and the Trafficking of Children for Sexual Purposes) for the attention of Christine Beddoe, Director.

Occupation: ECPAT are a leading children's rights organisation campaigning against the commercial sexual exploitation of children in the UK and on its international aspects. In particular, ECPAT's focus is the protection of trafficked children and children exploited in tourism and the prevention of such crimes.

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