

# Written evidence on the Criminal Justice Bill to the Committee for Justice

**Disability Action  
August 2012**

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## **INTRODUCTION**

- 1 Disability Action is a pioneering Northern Ireland charity working with and for people with disabilities. We work with our members to provide information, training, transport, employment, mobility awareness programmes and to represent people regardless of their disability; whether that is physical, mental, sensory, hidden or learning disability.
- 2 21% of adults and 6% of children living in private households in Northern Ireland have a disability and the incidence is one of the highest in the United Kingdom.
- 3 As a campaigning body, we work to bring about positive change to the social, economic and cultural life of people with disabilities and consequently our entire community. In pursuit of our aims we serve 45,000 people each year.
- 4 Our network of services is provided via our Headquarters in Belfast and in three regional offices in Carrickfergus, Derry and Dungannon.
- 5 Disability Action welcomes the opportunity to submit written evidence on behalf of this Bill.

## **GENERAL COMMENTS**

1. Disability Action welcomes the strengthening of the protection against trafficking contained in the Bill, however other matters need addressed including allowing the courts to take aggravating factors including the disability of the victim into consideration when passing sentence, extending the definition of exploitation to include forced begging, improving the training and investigative tools for police and prosecutors and to provide better support for victims as proposed in the consultation paper<sup>1</sup> on Proposed Changes in the Law to Tackle Human Trafficking.

There is considerable evidence of a growing trend for the trafficking of people with disabilities for exploitation in Asia and the

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1 <http://www.care.org.uk/wp-content/uploads/2012/08/PROPOSED-CHANGES-IN-THE-LAW-TO-TACKLE-HUMAN-TRAFFICKING.pdf> Lord Morrow August 2012

Middle East with reported incidents in Great Britain.<sup>2</sup> Despite recent reports on trafficking in Northern Ireland there is little available evidence on the extent of the problem of the trafficking of disabled people as disaggregated data is not available. This is a common problem in many states, leading some commentators to call disabled people, “the forgotten people of modern day slavery”.<sup>3</sup>

- 6.1 Research carried out by the Institute for Conflict Research in 2009, commented that the system of data collection on trafficking in Northern Ireland was “virtually nonexistent”.<sup>4</sup> The report recommended that, “the Northern Ireland Office should begin a wide-scale consultation with all relevant departments and organisations, including non-governmental organisations, on how data should be collected, stored and made available for assessment.”<sup>5</sup> Disability Action is not aware of any action on this matter with regard to people with disabilities.
- 6.2 The Assembly research paper on trafficking commented that only the PSNI rescues trafficking victims in Northern Ireland, whereas both UKBA and the Gangmasters Licencing Authority (GLA) could have the capacity to do so, if given the remit and training. It was also suggested that the powers of the GLA be extended to all parts of the economy. In addition, “data sharing and the availability of data were raised as issues”.<sup>6</sup>
- 6.3 It is unknown how many of the 75 individuals who are reported to have been rescued from trafficking by the PSNI since 2009/10 were disabled or what support has been given to them with regards to any disability.
- 6.4 Disability Action would urge the Justice Committee to call for better statistics and information on the extent of the problem of the trafficking of disabled people in Northern Ireland.

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2 Inquiry into Human Trafficking in Scotland. Report of the Equality and Human Rights Commission Feb 2010 see [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

3 <http://www.traffickingproject.org/2010/09/forgotten-people-of-modern-day-slavery.html>

4 <http://www.equalityni.org/archive/pdf/ECNIHRCTraffickingReport.pdf> page 7 (website last accessed in August 2012)

5 Ibid page (website last accessed in August 2012)

6 <http://www.niassembly.gov.uk/Documents/RalSe/Publications/2012/ofmdfm/10012.pdf>, page 29 (website last accessed in August 2012)

7. While the explanatory and financial memorandum and the consultation responses were available, Disability Action believe that the earlier availability of the Bill paper which was published on the 31 August 2012, the date for the finish of the consultation.<sup>7</sup> would have better informed the responses from the consultees.

## Specific Comments on the measures contained in the Bill

- 8 Schedule 1 (paragraph 6)

Schedule 1 (6) states that, “**an application under this paragraph must be in writing**” (page 10). Disability Action comments that the United Nation Convention on the Rights of Persons with Disabilities (UNCRPD) of which the UK is a signatory, notes in Article 21(b) that states agree to;

“(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;”

and under Article 4 1(a);

“(a) To adopt all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present Convention”.<sup>8</sup>

Disability Action also notes that the form of communication by the State parties is not prescribed in the proposed Bill, for example in paragraph 7; the “**Chief Constable must, within 14 days of the receipt of any application, under this paragraph, give an acknowledgement of the receipt of the application to the offender**”.

Disability Action would suggest a different form of words to reflect the comments of the UNCRPD while maintaining the needs for records to be maintained such as, “**an application under this**

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7 <http://www.niassembly.gov.uk/Documents/RalSe/Publications/2012/justice/12312.pdf> (website accessed in August 2012)

8 <http://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> (website accessed in August 2012)

**paragraph must include ...”** would provide the details required without being prescriptive about the communication method used.

8.1 The comments also apply to Schedule 2, paragraph 63J (3a) in which again consent must be given in writing.

9 Schedule 1 (paragraph 2A iii)

**“in respect of which the offender was found to be under a disability and to have done the act charged”**

This Bill paragraph refers to matters the Chief Constable must take into account when considering discharging the notification requirements under Part 2 of the Act, in ending the notification requirements.

It is unclear from the Act and from the information on the clauses in the Bill paper<sup>9</sup> why the undefined term disability has been specifically included as a grounds for the Chief Constable to consider. Disability Action would comment that unless disability on the part of the offender was part of the original offence, then matters in relation to capacity at the time of the offence can be adequately dealt with under paragraph 2(L) in the Bill;

**“Any information presented by or on behalf of the offender”.**

To include disability as a specific mitigation measure without further definition does unfortunately link disability with offending and unless there are specific reasons for its inclusion, Disability Action suggests that paragraph 2(iii) is removed.

10 DNA and Fingerprints

There is a great deal of evidence that there are high levels of disability amongst prisoners and young offenders. For example, work undertaken by the Police Authority for Northern Ireland and the Police Ombudsman on people with learning disability reported

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9 <http://www.niassembly.gov.uk/Documents/RalSe/Publications/2012/justice/12312.pdf> Pages 40-41

that the proportion of people with a learning disability convicted of crime is higher than the general population.<sup>10</sup>

Disability Action is not aware of any study which has examined the offending patterns of people with disabilities, but from the evidence on youth offending (i.e. that young people commit a number of minor offences) it seems logical that people with disabilities will be affected to a greater extent than the general population in relation to the gathering and retention of DNA and Fingerprints.

In the absence of definitive evidence on this matter, Disability Action is unable to make comments on the affect of the provisions of the Bill in relation to DNA and Fingerprints with regard to disabled people other than in relation to procedures.

Disability Action would comment that information in relation the taking, retention and disposal of fingerprints and DNA must be fully accessible to ensure that people with disabilities are not disadvantaged and that they are fully aware of the effects of the system. This will involve the monitoring of outcomes in relation to the number of people with disabilities requesting disposal of their DNA and fingerprints compared to the general population and consideration given to the formats used in the notification processes.

- 10.1 Disability Action welcomes the clear commitment in the Bill that DNA and fingerprints will only be used for the purposes related to the prevention or detection of crime (Schedule 2, paragraph 63N page 21).

## **CONCLUSION**

- 11 Disability Action has welcomed the opportunity to make a submission. Disability Action looks forward to continued dialogue on this and other issues of major significance to people with disabilities throughout Northern Ireland.

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10 [http://www.nipolicingboard.org.uk/learning\\_disability\\_research\\_final\\_report.pdf](http://www.nipolicingboard.org.uk/learning_disability_research_final_report.pdf) Page 5 (website accessed in August 2012)