

Committee for Justice
Northern Ireland Assembly
The Committee Clerk
Room 242
Parliament Buildings
Stormont
Belfast BT4 3XX

30th August 2012

Re. Written submission to Criminal Justice Bill 2012

Dear Sirs,

Thank you for your correspondence dated 11th July 2012 inviting us to present our views and comments on the Criminal Justice Bill. Our response will concentrate on the issue of human trafficking however we will briefly mention the issues of sex offender notification and the retention of fingerprints and samples.

Sex offender notification

In relation to sex offender notification we welcome the implementation of a review mechanism. We see this as reflective of the fact that an individual can change and that no one is beyond redemption. However, in order to protect the vulnerable we would suggest the retention of powers to initially place dangerous individuals on the register for life subject to the review mechanism after a defined period. In every case we would suggest a thorough review by the relevant psychiatric expert before someone is removed from the register. This would mean that individuals are not simply removed from the register after an arbitrary period even when they still present an identifiable threat to others.

Retention of fingerprints and samples

Without wishing to comment at length it seems necessary, at the very least, to amend the legislation to ensure that when someone has been acquitted of a crime that their sample and fingerprints are destroyed immediately.

Human Trafficking provisions - Clause 5

1. Proposed sentences

The two new trafficking offences will be introduced as hybrid offences which can be tried summarily or on indictment. We have concerns over the proposed sentence an offender could receive under summary conviction for either offence.

In the **consultation document** it was proposed that someone found guilty of either offence would be *“liable on summary conviction to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.”*

However the Bill, if passed in its current form would reduce this to a term of imprisonment not exceeding *6 months or a fine* not exceeding the statutory maximum.

Our concern is that rather than facing a maximum of 12 months in prison and the prospect of a fine, an offender summarily convicted under this Bill would now only face a maximum of 6 months in prison or a fine. We appreciate that trafficking is a complex offence and those involved will have varying degrees of criminal responsibility. However the fact that someone convicted of a trafficking offence could be given solely a fine seems disproportionately lenient given the gravity of the crimes and human rights abuses concerned.

2. Minimum Sentences

The Swedish Government has taken a tough approach when it comes to sentencing those convicted of trafficking:-

“Any person who uses coercion or deception, exploits someone else’s vulnerable situation or, by any other such undue or improper means, recruits, transports, houses, receives or takes any such action involving a person, and thereby *takes control of that person*, with a view to that person being exploited for casual sexual relations or in some other way being exploited for sexual purposes, shall be **sentenced to at least two and at most ten years’ imprisonment** for trafficking in human beings.”¹

This means that in Sweden the minimum someone would face, on conviction of a sex-trafficking offence, would be 2 years imprisonment. **We would suggest that a minimum custodial sentence fixed in legislation**, not merely in sentencing guidelines, could be an effective deterrent to those seeking to profit by sex trafficking here. We would suggest that this be coupled with a mandatory period on the sex offenders register for those convicted of any offence related to sex trafficking.

3. Complimentary Sentences

We would like to see robust measures against human traffickers matched by a consistent policy when dealing with the users. We would encourage debate and consideration of the ‘Swedish model’ as proposed by Lord Morrow’s bill, namely outlawing the purchase of sexual services. Alternatively another approach would be to change the offence of ‘purchasing sexual services from a prostitute subjected to force’ from a summary offence to a hybrid offence. This would give the PPS greater flexibility in terms of timescale, court of prosecution and greater sentencing powers. Again even a relatively short custodial sentence and spell on the sex offenders register could be a very effective deterrent to reduce the demand for sex trafficking.

¹ “Targeting the sex buyer. The Swedish Example: Stopping Prostitution and Trafficking where it all begins”. [2010] Kajsa Claude and the Swedish Institute, page 18, para 6.

Please do contact us if you require any clarification of these matters or if we can be of any further assistance.

May God bless,

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