



Anti-Slavery International
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Submission by Anti-Slavery International to the Committee on Justice on the proposal of Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

1. Introduction

1.1 Anti-Slavery International is the world's oldest human rights organisation (founded 1839) and is committed to eradication all forms of slavery throughout the world including forced labour, bonded labour, trafficking of human beings, descent-based slavery and the worst forms of child labour. Slavery denies millions of people their basic dignity and violates their fundamental human rights. Anti-Slavery International works to end these abuses by:

- Research and advocacy – lobbying and influencing governments, businesses and civil society;
- Advocating for the enactment and implementation of national and international legislation, policies and practices to prevent and eliminate slavery;
- Building coalition and movements to hold the international community to account;
- Empowering individuals and communities vulnerable to slavery to demand respect for their human rights, access effective remedies and obtain protection from slavery.

Anti-Slavery International is the oldest international human rights organisation in the world and the only UK charity that solely deals with issues of modern day slavery, including trafficking in human beings. The organisation has a consultative status with the United Nations and a participatory status with the Council of Europe. Anti-Slavery International is a member of the Home Office's Joint Strategic Group on Human Trafficking and co-chairs two of its thematic sub-groups. Anti-Slavery International also chairs and hosts the Anti-Trafficking Monitoring Group.

1.2 This submission was drafted by Ms Klara Skrivankova, the Trafficking Programme Coordinator and expert on the issue Anti-Slavery International. Ms Skrivankova has been working in the area of anti-trafficking since 2000 and has been involved in assistance to many trafficked persons and provided expert advice in a number of trafficking cases. Between 2000-2005, she worked as a project manager in La Strada Czech Republic, a non-governmental organisation that has since 1995 supported hundreds of trafficked persons. La Strada Czech Republic is internationally and nationally recognised expert anti-trafficking organisation. It is a partner within the government victim protection scheme and has

provided expertise in the drafting process of anti-trafficking legislation and guidelines. From 2005, she has been working in Anti-Slavery International leading its anti-trafficking programme. I am responsible for the anti-trafficking work of the organisation. Between 2005-2008, Ms Skrivankova acted as an expert with the Council of Europe in their campaign on the Convention on Action against Trafficking in Human Beings. In 2007, she co-founded the Trafficking Law and Policy Forum in the UK. From 2008, she has been a member of the Group of Experts on Trafficking in Human Beings advising the European Commission. Since June 2009, she has been a member of the Advisory Board of the Forced Labour and Modern Day Slavery Programme of the Joseph Rowntree Foundation. In March 2009, she has been appointed to the Board of Trustees of the UN Voluntary Trust Fund on Contemporary Forms of Slavery and in November 2010 to the Board of the UN Voluntary Trust Fund for Victims of Trafficking. She is also currently working as an external consultant for the Joseph Rowntree Foundation Forced Labour Programme and acts as a resource person for the consultation on effective remedies for trafficked persons convened by the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children. Ms Skrivankova was a specialist contributor (I authored two chapters on compensation and on forced labour) to the *The Human Trafficking Handbook: recognising trafficking and modern-day slavery in the UK*, edited by P. Chandran and published by Lexis Nexis in 2011.

2. What we know about trafficking in the UK

2.1 We expect that the Committee will have received a number of separate submissions on this. For this reason, Anti-Slavery has decided to focus its evidence to the Committee on two specific themes which utilise the evidence and experience of Anti-Slavery International. We would also like to note that we welcome the inclusion of specific provisions on victim protection and assistance in Part 2 of the Bill. These are paramount to any successful anti-trafficking efforts. We further note with appreciation the inclusion of a clause to set up an independent rapporteur to monitor the implementation of anti-trafficking measures in Northern Ireland, directly accountable to the Assembly.

The themes covered by this submission are:

- (1) Forced labour and the significance of equal treatment of all victims, regardless of what purpose they have been exploited for and the clarification of offences of modern day slavery
- (2) Proposal to criminalise the paying for sexual services of a person

3. Forced labour and the significance of equal treatment of all victims regardless of what purpose they have been exploited for

3.1 Forced labour can be both and outcome of trafficking in human beings (one of the purposes for which trafficking occurs as defined in Art.3 of the Council of Europe Convention on Action against Trafficking in Human Being) or a separate offence.

3.2 While trafficking is a process, consisting of three inter-dependent elements¹, the final purpose of which is exploitation, including in forced labour, forced labour is maintaining a person in a situation where they are involuntarily forced to perform a service of labour under a menace of penalty. For further information, please see Between Decent Work and Forced Labour: Examining the Continuum of Exploitation, Joseph Rowntree Foundation, 2010.

3.3 Both trafficking and forced labour are found in Northern Ireland. This has been extensively documented in research by the Joseph Rowntree Foundation that also included a study specifically on Northern Ireland.

3.4. The introduction of an offence in 2009 of Slavery, servitude and forced and compulsory labour under section 71 of the Coroners and Justice Act was to close the legislative gap where only trafficking offences were criminalised, rather than all forms of modern day slavery, including forced labour as required by the ILO Convention No. 29, of which the UK is a signatory.

3.5 We note with appreciation that reference is made in Art.1 (b) of the proposed bill to section 71 of Coroners and Justice. It is important that all forms of modern day slavery be covered under unified piece of legislation reflecting that trafficking and forced labour can occur both concurrently and consequently.

The Bill should also strive to clarify the offences and making them easily applicable in prosecution. We consider that the definitions of offences included in the Bill can be improved as follows:

a) include a single definition of trafficking that mirrors the definition of the EU Trafficking Directive (2011/36) that specifically included trafficking for forced criminal activity and begging

b) keep a separate forced labour definition that refers to the ILO Convention 29. This should be accompanied by providing the criminal justice actors with lists of indicators developed by the ILO (International Labour Organisation) for identification of situations of forced labour

3.6. Protections under Art.8 and Part 2 of thr Bill shall include victims of all forms of modern day slavery, not just trafficking. As demonstrated in cases of forced labour uncovered in England and Wales (the so-called 'Connors cases' of mainly British men that have been kept in forced labour in England for up to 20 years), victims of forced labour need the same protection and assistance as victims of trafficking. These victims have been able to benefit from assistance under the NRM, however, this assistance should be guaranteed, so that all victims of modern day slavery have equal access to protection and assistance.

The proposed Bill must not create a "hierarchy of suffering" or categories of "deserving and undeserving" victims. It is also to be noted that the ILO is discussing introducing a protocol to the Forced Labour Convention No. 29 to bring in binding protection requirements for victims of forced labour in future.

¹ See Art. 3 Council of Europe Convention on Action against Trafficking in Human Beings

3.7. The total number of cases of trafficking for forced labour (in all its forms including domestic servitude and forced criminal activities) has in 2012 in the UK² exceeded the number of cases of trafficking for sexual exploitation. Hence, it is paramount that focus of the Bill concentrates on ensuring that all victims of forced labour are recognised and assisted.

4. Proposal to criminalise the paying for sexual services of a person

4.1. Anti-Slavery International's view is that the term "modern day slavery" should refer to all forms of recruitment into slavery and slavery-like exploitation, including trafficking and forced labour and that the term should not be confined to recruitment into prostitution.³

4.2. Anti-Slavery International endorses the definition contained in Article 4 of the Council of Europe Convention and the EU Trafficking Directive 2011/36 and regards this as an appropriate framework on which to base its own work against trafficking. Similarly, Anti-Slavery endorses the definition of forced labour contained in the ILO Convention No.29 and regards it as an appropriate framework for combatting forced labour.

4.3 Anti-Slavery International is also aware of the international polarised debate with organisations supporting abolition of prostitution on one side and those supporting legalisation of prostitution on the other side. However, there are no sufficient grounds for Anti-Slavery to work against prostitution as it is not a form of slavery. Anti-Slavery International, as one of the parties involved in the negotiations, endorses the Council of Europe Convention. In line with the opinion of the Council of Europe, we follow the distinction between prostitution and trafficking in human beings:

4.4 The Council of Europe, based on the Council of Europe Convention, suggests drawing a distinction between the two phenomena: "It must be clear that the forms of exploitation covered by the Convention are not limited to sexual exploitation. Moreover, trafficking in human beings differs from "prostitution" in that it is a new form of slavery which can include sexual exploitation, but not necessarily. Prostitution can only be qualified as "trafficking in human beings" if one of the actions e.g. "recruitment" and means, "threat or use of force referred to under at. 4 of the Convention have been used."⁴

4.5 Anti-Slavery International also accepts the position of the ILO on forced prostitution and forced labour:

"While the (UN) Trafficking Protocol draws certain distinction between *trafficking for sexual exploitation* on one hand, and *trafficking for forced labour or services* (and also slavery, slavery-like practices and servitude) on the other, this would not be taken to imply that coercive sexual exploitation does not constitute forced labour. Indeed, the ILO supervisory bodies have regularly dealt with forced prostitution and sexual exploitation under Convention No.29."⁵

² Data from UK Human Trafficking Centre

³ As was implied by the main international standard in existence before the adoption of the Protocol in November 2000 - the 1949 UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others.

⁴ Statement by the Head of the Minorities, Media and Equality Department, Directorate General of Human Rights, Council of Europe as published in Proceedings from the regional seminar in Riga, September 2006. Directorate General of Human Rights, Council of Europe, Strasbourg, 2007.

⁵ *A Global Alliance against Forced Labour*. International Labour Office, Geneva, 2005.

4.6 In conformity with the Council of Europe Convention on Action against Trafficking in Human Beings and other existing international standards⁶, Anti-Slavery International will continue to oppose any cases of child prostitution involving girls or boys less than 18 years of age.

4.7 Arguments are often presented, mainly by experts from Sweden, suggesting that criminalising the buying of sexual services of a person is a solution to trafficking for sexual exploitation. However, Anti-Slavery International has not been able to find robust enough evidence that any measures aimed at regulation of prostitution or criminalising the purchase of sexual services have any significant impact on reduction of trafficking.

4.8. The Swedish National Council for Crime Prevention found no evidence that after a decade in place, the Swedish law criminalising the buying of sex had any significant impact on decreasing trafficking for sexual exploitation in Sweden. In fact, evidence had previously been presented to show one of the effect was to drive the problem underground and into the realm of modern information technologies, such as the internet and mobile phone technology.” The number of women involved in the online sex market is often higher than, for example, the number of women working for trafficking networks engaged in street prostitution.....In most Swedish cases, the contacts between clients and organisers or the woman or girl take place when the clients send e-mail or call a phone number in the ad.”⁷

4.9 The Trafficking in Persons Report of the US Department of State continues to report about cases of trafficking for sexual exploitation in Sweden (see for example reports for 2011, 2012 and 2013).

4.10 Anti-Slavery International understands from the Swedish trade unions and service providers that as a result of the law prohibiting the buying of sex, there has been over focus on trafficking for sexual exploitation in Sweden, to the detriment of those trafficked for forced labour. In the past three years, cases of labour trafficking in Sweden have been increasing, for instance those of victims from south-east-Asia exploited in the north of Sweden as berry pickers. These victims were supported by local communities, as there is absence of assistance provisions for victims of labour trafficking in Sweden.

4.11 In 2008, Swedish authorities failed to prosecute members of the Connors’ gang for trafficking and exploiting in forced labour men, including British men, in Sweden. This was the same gang members of whom were finally convicted of forced labour in the UK in 2012 and 2013.

4.12 In 2012, Anti-Slavery International participated in a seminar where a representative of EUROPOL from the unit that deals with trafficking confirmed in his presentation that across Europe, there is no evidence to show that any laws on prostitution (be it regulative or prohibitive) have had any significant impact on the issue of trafficking. He went on to argue that while there might be some links, these were essentially two separate issues.

⁶ Notably the ILO’s Worst Forms of Child Labour Convention (Convention No. 182 of 1999), and the UN Convention on the Rights of the Child (1989).

⁷ The Organisation of Human Trafficking: A Study of Criminal Involvement in Sexual Exploitation in Sweden, Finland and Estonia. Bra (Swedish National Council for Crime Prevention, Stockholm, 2008. p.79

4.13 Data both from the Eurostat⁸ and the US Department of State Trafficking in Persons Reports show that both countries with regulative approach as well as those who have adopted the so-called “Swedish model” continue to report cases of trafficking in human beings for sexual exploitation.

Key recommendations by Anti-Slavery International

Anti-Slavery International recommends the following key amendments for the Committee’s Consideration:

1. Offence of trafficking in human beings in all its forms shall be defined in the Bill in a single definition, adopting the definition of the EU Trafficking Directive 2011/36
2. Offence of forced labour (servitude and slavery) should be defined in the Bill by adopting the definition of the relevant UN Conventions, especially ILO Convention No. 29
3. Article 6 of paying for sexual services of a person should be removed from the Bill as it covers acts other than trafficking and forced labour. The article should be replaced by an article prohibiting the knowing use of the services of a victim of any form of trafficking as provided in Art. 19 of the Council of Europe Convention and Art. of the EU Directive.

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Anti-Slavery International will be happy to provide oral evidence to the Committee. As there are a number of areas of commonality, we will be happy to do so in a joint session with Amnesty International NI.

⁸ Trafficking in Human Beings, Eurostat, 2013