

DEIRDRE O'REILLY

27.10.13.

Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

TO committee.justice@niassembly.gov.uk

Dear Committee,

I include below my comments on several proposed clauses of the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill.

I trust that these comments will be considered by yourselves in regard to the Committee Stage of the Bill.

Yours sincerely,
Deirdre O'Reilly, M.Ed.

CLAUSE 6
PAYING FOR SEXUAL SERVICES

The new proposed clause makes it an offence to pay for sexual services.
This has been found to be an effective way of tackling trafficking in other countries such as Sweden and Norway.

Although the present situation in Northern Ireland is that it is illegal to buy sex from someone who is being coerced, in practice this is difficult to prove within the required timeframe and no convictions have as yet been secured.

An added advantage of criminalisation of paid sex would be that this would cover a wider range of situations, including those of exploitation where trafficking has not been involved. Many of those involved in prostitution have experienced difficulties such as debt, living in care, homelessness, substance abuse, sexual abuse as children. [cf Paying the Price: A Consultation paper on prostitution, Home Office, July 2004 and Max Waltman "Sweden's prohibition of purchase of sex: the law's reasons, impact and potential" Women's Studies International Forum 34 (2011) p451

While it may be feared that to criminalise the purchase of sex might drive prostitution underground, this has not been the experience of Sweden, where Kajsa Wahlberg, Swedish National Rapporteur on Human Trafficking, claims that prostitution cannot go underground because the buyers need to be able to find the women. Prior to the law prohibiting the purchase of sexual services the pimps could easily send the women out looking for buyers. Nowadays they have to advertise and make arrangements which means that the risk of getting caught increases. In fact the Swedish police felt that this is an effective way of tracking down pimps and traffickers.

CLAUSE 8
NON -PROSECUTION OF VICTIMS OF HUMAN TRAFFICKING

There has been a problem in Northern Ireland regarding the prosecution of some victims of human trafficking before it has been established whether or not the offending behaviour was a direct result of being trafficked [cf Greta (Group of Experts on Action Against Trafficking in Human Beings), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom, GRETA(2012)6, 12 September 2012, p75]

The proposed Clause 8 would provide immunity ONLY where the offending behaviour is a direct consequence of being trafficked.

CLAUSE 10
REQUIREMENTS FOR ASSISTANCE AND SUPPORT

The requirements for states regarding the support and practical assistance which should be given to victims are outlined in Article 11 of the EU Directive and Article 12 of the European Convention. GRETA, which oversees compliance with the European Convention against Human Trafficking, recommends that the UK ensures proper assistance and support for victims [including translation/interpretation services and legal counselling and representation].

The present situation in Northern Ireland is that Migrant Help and Women's Aid provide services but these are not statutory. The new Clause 10 would make much more robust legal requirements.

CLAUSE 11
COMPENSATION FOR VICTIMS OF TRAFFICKING

While Article 17 of the EU Directive outlines the requirement that victims of human trafficking should have access to existing schemes of compensation to victims of violent crime of intent, in practice Northern Ireland has paid compensation to only two victims of human trafficking. GRETA has outlined some of the difficulties faced by victims wishing to claim compensation. The new proposed Clause 11 would ensure that clear procedures are available for the victims to access in claiming compensation.

CLAUSE 12
CHILD TRAFFICKING GUARDIAN

It has been internationally recognised that the most effective help for a trafficked child is to have a Guardian. [cf UNICEF, GRETA and US STATE DEPARTMENT]

Rescued trafficked children are at risk of being re-trafficked. Three of the eight trafficked children rescued in Northern Ireland between January 2009 and September 2012 subsequently went missing.

Trafficked children are involved with immigration officials, police officers, solicitors and social workers. There is need for one key adult who would be able to assist the child in all his/her interactions with the officials.

The proposed Clause 12 would ensure that a trafficked child is given a Trafficking Guardian as soon as the child is identified unless there is a suitable person with parental responsibility available.

CLAUSE 15
PREVENTION

The European Directive emphasises the need for a strategy for raising awareness and reducing both trafficking and slavery offences.

At the moment, there is, in Northern Ireland, need for improvement in the detection and prosecution of slavery offences [cf Anti Trafficking Monitoring Group --- ATMG, In the Dock, 2013, p123]

Although the Minister of Justice has decided to introduce an annual action plan regarding the strategy for raising awareness and reducing both trafficking and slavery offences, this action plan is not statutory and a more robust statutory situation would result from the implementation of Clause 15

CLAUSE 16

NORTHERN IRELAND RAPPOREUR

It would seem helpful if a body were appointed to oversee the work of Government agencies and report to the Northern Ireland Assembly regarding the trafficking/slavery situation. While the UK Government has indicated that it plans to introduce a Modern Slavery Commissioner, the responsibilities of such a post have not yet been clarified and there is no definite time-scale given yet for the implementation of this plan.

Thus, it would seem helpful, at least in the meantime, if there was a body such as a Northern Ireland Rapporteur, independent of Government, to report to the Assembly on the situation.