

The Church in Society Commission of the Church of Ireland

Submission on the
NIA Bill 26/11-15 Human Trafficking and Exploitation
(Further Provisions and Support for Victims) Bill

Introduction

The Church and Society Commission of the Church of Ireland is a Committee of the General Synod of the Church of Ireland. The Commission's remit includes responding to proposed legislation, and addressing relevant issues in the public sphere, and resourcing the wider Church of Ireland in the discussion of these issues.

Executive Summary

The Church and Society Commission deplores anything that deprives innocent victims of their human dignity and personal freedom, and recognises the need for clear legislation to protect those who are vulnerable to trafficking, and to other related forms of exploitation. All human persons are made in the image and likeness of God and deserve to be recipients of God's love through the actions of their neighbour. Jesus Christ proclaimed his mission to be one that will 'let the oppressed go free' and any expression of such freedom that is protected under the law is to be welcomed. While asking a few specific questions, the Commission stands in favour of this general tone of this legislation and welcomes the Bill's progression through the Assembly.

This paper will address a number of points relating to specific clauses of NIA Bill 26/11-15, in numerical order. This is in response to the present consultation at the Committee Stage of the Bill's progress.

1. Definition of human trafficking and slavery offences

The Commission welcomes this clear definition, and notes in particular the value of connecting forced labour and servitude to the offence under 'slavery'.

2. Consent irrelevant for victim of human trafficking or slavery offences

This clause recognises the exploitative nature of trafficking and mitigates against perpetrators claiming that their victims have somehow consented to such abuses. The Commission welcomes this.

3. Aggravating Factors

This clause also recognises the particular nature of trafficking as a crime, insofar as it inevitably involves abuse and/or exploitation. Although there are potential issues around legislature specifically directing judiciary, the clause ultimately leaves the determination of aggravating factors to the sentencing judge. The Commission welcomes these factors being defined in the Bill.

4. Minimum sentence for human trafficking and slavery offences

As with clause 3, the question of the relationship between legislature and judiciary is pertinent. However, mandatory minimum sentences are not unprecedented, and the clause allows an opt out to such a minimum sentence in 'exceptional circumstances'.

5. Amendments to the Asylum and Immigration (Treatment of Claimants etc.) Act 2004

The Commission has no comment to make on this clause.

6. Paying for Sexual Services

Exploitation and Human Trafficking are invariably linked with payment for sexual services. Making payment for sexual services into an offence has the potential to act as an effective deterrent to trafficking by reducing the market for sexual services. This is probably the most significant single section of the Bill that addresses the link between payment for sexual services

and trafficking, and offers an effective means of prosecuting the latter by removing doubt regarding the former. Any fears about driving the commercial sex industry further underground may be adequately mitigated by assurances (within this Bill or elsewhere) that support for those who wish to exit prostitution is readily available.

While not specifically part of the scope of this paper, the Commission wonders whether this legislation would impact upon commercial sexual activity in other contexts such as telephone sex lines or lap dancing clubs and would ask whether further clarity is needed?

7. Requirements for resources for investigation or prosecution

The Commission welcomes this attempt to ensure robust procedures and resources that will ensure effectiveness in prosecution.

8. Non-prosecution of victims of trafficking in human beings

This clause seeks to further enhance the protections afforded in law to those exploited by trafficking. The Christian notion of justice is greater than simply 'following the law' and this clause recognises that especially when coercion is a real issue, justice may be best served by exempting people from prosecution through the law.

9. Victim of trafficking in human beings

Clearly defining a victim allows a frame of reference for the provision of services to victims alter in the bill.

10. Requirements for assistance and support

The Commission supports this clause.

11. Compensation for victims of trafficking

The Commission supports this clause.

12. Child Trafficking Guardian

The Commission welcomes this clause, which seeks to ensure victims are afforded appropriate protection, support and representation. It is important that identification of suitable individuals and appropriate resourcing and training remain part of and guardianship procedures.

13. Protection of Victims in Criminal Investigations

It is important that victims are not in turn victimised for being victims. Protection must be afforded to victims of Trafficking through the law.

14. Amendments to the Criminal Evidence (Northern Ireland) Order 1999

The Commission supports this clause.

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The Commission has no comment to make on these clauses.

Conclusion

The Church and Society Commission welcomes this legislation, and fully supports the intention behind it to protect the most vulnerable in society, and to bring the perpetrators of human trafficking and exploitation to justice in the most effective ways possible.