



Human Trafficking and Exploitation Bill

**Victim Support NI Submission to the Northern
Ireland Assembly Justice Committee**

November 2013

1.0. About Victim Support

Victim Support Northern Ireland welcomes the opportunity to comment on the Department of Justice Consultation on the Northern Ireland Law Commission Report on Bail in Criminal Proceedings.

Victim Support provides practical and emotional support to victims of crime across Northern Ireland. During the period 1st April 2012 to 31st March 2013, we received over 31,000 referrals to our Community Services. Out of this number around 3,500 people who were affected by crime were supported face to face, to work through the effects those crimes have had on their lives. In addition, almost 12,000 victims and witnesses were supported through the process of attending court and giving evidence and around 2,000 citizens injured as a result of violent crime were assisted with their criminal injuries compensation application.

2.0. General Comments

- 2.1.** Victim Support NI is concerned by the issue of Human Trafficking in Northern Ireland and our organisation is fully committed to providing appropriate help and support to victims who have been trafficked for any purpose.
- 2.2.** We welcome Lord Morrow's commitment to this issue and the important opportunity for discussion and debate which the introduction of the Bill has afforded.
- 2.3.** However, whilst we acknowledge that this is a highly emotive policy area and fully support efforts to legislate on this issue, we are of the view that any legislation must be based on strong evidence and should produce law which is effective and enforceable, if it is to make a demonstrable difference to individuals who have been trafficked.
- 2.4.** Victim Support NI is of the strongly held opinion that legislative initiatives should be based upon extensive evidence gathering, identification of need and a comprehensive analysis of research. This constitutes best practice in policy making. With these considerations in mind, we are strongly advocating for a delay in the passage of the Bill, to facilitate Northern Ireland specific research and to ensure that a fully informed debate takes place on the issues raised.
- 2.5.** It is also in this context that our organisation has a number of concerns about specific aspects of the Bill.

3.0. Existing Law:

- 3.1.** Upon analysis of the individual clauses contained within the Bill, it is evident that current provision and arrangements, significantly address many of the key issues raised. For example in respect of Clause 6 which would make it an offence to obtain sexual services from a person over the age of 18, in exchange for payment, the current law was substantially updated by the Sexual Offences (NI) Order 2008 and criminalises a variety of activity in relation to the supply of prostitution and the purchase of sexual services.
- 3.2.** Further, Sentencing Guidelines for Northern Ireland already confirm aggravating factors of general application and these are applicable in cases of Human Trafficking. There is also legal precedent that an abuse of a position of trust must be severely treated.
- 3.3.** Similarly, forced begging is already recognised to fall within the labour exploitation definition.
- 3.4.** Our organisation would wish to see the enforcement of existing law and consider that any changes in this regard should be based on careful and substantive analysis.
- 3.5.** Victim Support NI is a strong advocate of Judicial Independence and we therefore have concerns regarding the application of minimum sentencing.

4.0. Clause 6:

- 4.1.** Victim Support NI shares Amnesty International's concern that the Trafficking Convention and the EU Trafficking Directive, expressly provide measures to be taken for discouraging and reducing the demand for trafficking victims; the criminalisation of the purchase of sexual services is not one of the measures they recommend.
- 4.2.** Additionally, these concerns are reflected by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) in their third general report which states that "The impact of criminalising the purchase of sexual services, seen as an anti-trafficking measure in some of the States evaluated by GRETA, must be assessed in the light of all possible consequences. This includes ensuring that the measures taken do not drive victims of trafficking for the purpose of sexual exploitation underground or make them more vulnerable, and also that they do not mobilise investigation units and prosecution authorities to the detriment of investigations of traffickers."

- 4.3. We are concerned that clause 6 seeks to outlaw the paying for sexual services of a person as a standalone measure, **without** further provision and support provided for those who will be directly affected as a result of this step, nor crucial protection and support for those seeking to exit the selling of sexual services. Further provision and support should be fully informed by a strong evidential base, which would include independent research and consultation with a range of stakeholders including sex workers.
- 4.4. We are further concerned that the conflating of the issue of prostitution with the wider issue of Human Trafficking, may be unhelpful.
- 4.5. It is our view that Northern Ireland specific research must be carried out in order to fully examine the scale, nature and extent of prostitution in Northern Ireland and to explore associated criminal justice and socio-economic issues.
- 4.6. Similarly, research is required to identify whether there may be a negative impact on other groups of victims. For example, what impact has similar legislation in respect of prostitution in other jurisdictions, had on the prevalence of other human trafficking offences? Has the focus on criminalising the purchaser impacted on intelligence gathering and how easy will it be to enforce such a law?
- 4.7. It is also essential that in seeking to provide appropriate support and legal provisions, we do not create a hierarchy of victims in Northern Ireland.
- 4.8. In a Bill designed to address Human Trafficking in Northern Ireland, it is striking that while there is a considerable focus on the specific offence of trafficking for the purposes of sexual exploitation, there is little proposed in respect of other forms of Human Trafficking, including forced labour and organ harvesting.
- 4.9. Victim Support NI would welcome more debate on the potential impact of Clause 6 of the Bill.
- 5.0. **Clause 10**
- 5.1. Victim Support NI welcomes this clause on support provision for victims.
- 5.2. However, we feel this clause would benefit from clarifying the proposed responsibilities of both Department of Health Social Services and Public Safety (DHSSPS) and Department of Justice, so that this is clear in statute.

- 5.3. Our organisation joins with Amnesty International in recommending the overarching requirement for support be placed in primary legislation with a requirement for the relevant Government Departments to set out the detail by Order in secondary legislation. Human trafficking is not a static issue and will change and evolve over time, as do the needs of victims. Northern Ireland policies, processes and legislation must retain a degree of flexibility and be easily amended to ensure they can adequately respond to upholding the protection and promotion of the rights of victims. Secondary legislation will be easier to amend at a later point.

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