

NORTHERN
IRELAND
HUMAN
RIGHTS
COMMISSION

The Nature and Extent
of Human Trafficking
in Northern Ireland

A Scoping Study by
Institute for Conflict Research 2009

Equality Commission

FOR NORTHERN IRELAND

The Nature and Extent of Human Trafficking in Northern Ireland

A Scoping Study

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commissioned by
Northern Ireland Human Rights Commission
and
Equality Commission for Northern Ireland

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The greater movement of peoples that has been such a defining characteristic of recent years has, in the main, been a very positive feature of life. We share in new cultures; our traditions are more widely appreciated; our experiences are enriched.

Those positive developments have, however, been accompanied by – and have sometimes masked – a much less savoury movement of people, utterly involuntary and wholly exploitative. Made more easy by the political and social dislocation of many states, given superficial cover by the unequal distribution of the world's goods, this is the reality of human trafficking, our modern slavery.

For quite a long time, there was a sense that this was an issue for other places, for international conurbations or the big metropolis. It was not something that would affect us in our secure place on the fringe of Europe. But if we have learnt anything from the global experience of the past decades it is that no place is remote from contact with the rest of the world; no place is immune from the issues that confront modern society.

For the Equality Commission and the Northern Ireland Human Rights Commission, here was a real problem; anecdotal evidence for which was beginning to grow, finding some measure of media attention but with apparently little formal acknowledgement or institutional response. It is an issue that at once engages the purpose and remit of both Commissions. It is a fundamental denial of any principle of equality and a fundamental assault on any concept of the human rights of individuals. It is organised crime with vulnerable people - almost always women - as its raw material and as its victims.

Thus, the two Commissions commissioned this independent study as an attempt to provide some understanding of the nature and extent of this issue in Northern Ireland, to make a contribution to debate and greater understanding and to encourage appropriate action. Since our thoughts first turned to this work, there has been welcome evidence of greater official engagement with the matter and more pronounced response in terms of public policy. This report will accelerate those positive moves as well as provide both Commissions with the basis for constructive work with public authorities and on behalf of victims.

In commending careful consideration of this report, we record our appreciation of all who made it possible – those who made available their advice, who agreed to be interviewed, who facilitated this publication and, most of all, its authors whose diligent work has provided Northern Ireland with a timely insight into a pressing problem and a valuable set of recommendations for reflection and action.



Bob Collins
Chief Commissioner (ECNI)



Monica McWilliams
Chief Commissioner (NIHRC)

Preface

Trafficking in human beings, often described as modern day slavery, exploits and perpetuates social inequalities, both in the countries from which victims of trafficking come and in the countries of destination. Trafficking in human beings is a violation of human rights and is perpetrated by individuals from a variety of social and ethnic backgrounds. The victims as well as perpetrators come from all social or ethnic groups.

For several years, voluntary organisations such as Women's Aid and legal practitioners in Northern Ireland, have spoken out about the existence of human trafficking in this jurisdiction. Yet, until very recently, there has been a distinct lack of an official response to this issue. Recognition that this human rights breach was also occurring in Northern Ireland was slow to surface.

In 2008, the Police Service of Northern Ireland (PSNI) reported that victims of sex trafficking had been identified as part of the UK-wide Operation Pentameter 2 (a multi-agency anti-trafficking initiative). The publication of the results of this Operation included the first official statistics on sex trafficking and indicated that Northern Ireland is a destination for victims. Up to late March 2009, the PSNI reported that it had dealt with at least 11 more cases, not only in the area of sexual exploitation, but also in labour exploitation and the trafficking of children.

At the end of March 2009, Northern Ireland Office Minister Paul Goggins announced the establishment of a new and comprehensive service for victims of trafficking in Northern Ireland as part of the UK's implementation of the Council of Europe Convention against Trafficking. The publication of the present report is therefore timely as it may serve as a benchmark of the situation as it stood before this announcement. A ministerial review of the service is due in early 2010.¹

The authors of the report would like to express their gratitude to all those who agreed to share their information and experiences with us, and gave generously of their time. The recommendations are widely informed by their knowledge and expertise in a variety of areas. The content of the report remains the responsibility of the authors.

¹ There have also been a number of developments between the Commissions' receipt of the authors' draft in August 2009 and the publication of this report in December. Some of these are reflected in minor adjustments to the text or in footnotes.

Executive Summary

In mid-2008, the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland jointly commissioned the Institute for Conflict Research to conduct a scoping study into the nature and extent of human trafficking in Northern Ireland. The purpose of the study was to *“increase the knowledge of the commissioning organisations about trafficking and identify the appropriate steps that might be taken to respond to this issue”*.

This report presents the findings of this study in relation to the nature and extent of human trafficking in Northern Ireland. The findings are based on 24 interviews, conducted by researchers with representatives of law enforcement agencies, social services, trade unions, advice and support organisations, and legal practitioners. These are discussed in the context of the literature and policy review that was undertaken before the fieldwork commenced²

The information gathered during the interviews shows evidence of the trafficking of women and children for the purposes of sexual exploitation and forced labour, including for domestic servitude. Some information was also received relating to the trafficking of men for labour exploitation, although there was significantly less data on this issue, and less knowledge among interviewees about this problem.

The findings of the study highlighted significant gaps in knowledge about the extent and nature of trafficking showing that a system of data collection in Northern Ireland is virtually non-existent.

Of equal concern was the limited and ad-hoc nature of the provision of services for victims of human trafficking in Northern Ireland. The information provided by interviewees indicated that such provision was largely made on a case-by-case basis. It often depended on the goodwill and dedication of those who provide support and services once a victim has been identified.

The Government’s ratification of the Council of Europe Convention against Trafficking in December 2008 and the Northern Ireland Office working in co-operation with the devolved Assembly presented an opportunity to design a system for combating trafficking in human beings in this jurisdiction. Ratification provides an opportunity for an approach that focuses on providing comprehensive assistance and protection for victims. Such a system must be based on respect for human rights and equality. A number of recommendations are summarised below which should lead to a comprehensive approach to dealing with human trafficking. The authors also make suggestions for further work by the bodies that commissioned this report.

² This literature review is described below in the Introduction.

Recommendations

On service provision

1. A co-ordinated, multi-agency approach, led by the Department of Health, Social Services and Public Safety and the Police Service of Northern Ireland (PSNI) should be established to co-ordinate services for victims of trafficking to and within Northern Ireland. Provision of services for children and young people arriving unaccompanied in Northern Ireland and those (in care or otherwise) who may be at risk of internal trafficking, should be given priority. The practice of placing unaccompanied minors in bed and breakfast accommodation without support should be abolished. Non-governmental organisations with experience in the field of child protection should be resourced to introduce the type of protective accommodation necessary for children trafficked into Northern Ireland and those at risk of internal trafficking.
2. The following support plan should be developed (with particular elements dependent on the nature of exploitation) including:
 - a. Safe accommodation, and in the case of children and young people, specialised foster care
 - b. Trauma support services and counselling, including specialised support for children
 - c. Rape crisis intervention
 - d. Immigration advice
 - e. Legal advice in relation to criminal proceedings and advice to the victim on the witness support scheme
 - f. Advice on welfare and employment
 - g. Assignment of Guardian ad Litem to every unaccompanied minor that is a victim or suspected victim of human trafficking and
 - h. Rehabilitation programme of support and services.
3. The Ministerial review in 2010 of the new arrangements should be carried out with the active involvement of service providers, legal practitioners and NGOs providing advice and support to victims.

On the identification of victims

4. An information campaign should be organised by the PSNI to ensure that contact details for the PSNI are available across the community and voluntary sector, as well as across other organisations that can potentially assist in the identification of victims. This network could include migrant support organisations, advice agencies, churches, hospitals, women's organisations, trade unions, etc.
5. Specialist training on identification of potential victims of trafficking should be provided to relevant organisations.

On forced labour

6. The Department for Employment and Learning, the Gangmasters Licensing Authority,³ HM Revenue and Customs and the UK Border Agency (UKBA) should introduce mechanisms to address forced labour within all sectors of the economy. The identification of victims of human trafficking should be separated from the issue of immigration control.

On training of law enforcement agencies

7. The PSNI should provide training on human trafficking to new recruits.

8. The PSNI should train police officers in the identification protocols to better enable officers to recognise signs of human trafficking.

On the criminal justice sector

9. Training in issues relating to human trafficking should be provided by the Judicial Studies Institute in line with training provided to law enforcement agencies and the Public Prosecution Service.

10. A review of the criminal and civil compensation systems in Northern Ireland should ensure that victims of trafficking have adequate redress and that effective compensation schemes for victims of trafficking are at the core of a victim-centred approach to trafficking in Northern Ireland.

On data collection

11. The Northern Ireland Office should begin a wide-scale consultation with all relevant departments and organisations, including non-governmental organisations, on how data should be collected, stored and made available for assessment. The consultation should include discussions with the PSNI, the Public Prosecution Service, the Court Service, the Department of Health, the Department for Employment and Learning (in relation to inspections carried out by that Department), the Gangmasters Licensing Authority, and HM Revenue and Customs.

12. A similar review should be undertaken by the UKBA and statistics made available on a regular basis to enable monitoring.

³ The regulatory agency established to protect workers, principally migrants, from exploitation in food processing and other industries: see <http://www.gla.gov.uk>.

Suggestions for further work by NIHRC and ECNI

In addition to the policy recommendations above, the authors have provided suggestions to the commissioning agencies – the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland – as to how they might take forward their work on trafficking. Each Commission will decide on how best to take these forward in the light of further consultations with relevant stakeholders.

List of Acronyms

ACPO	Association of Chief Police Officers of England, Wales and Northern Ireland
CARE	Child Abuse and Rape Enquiry Unit
CICA	Criminal Injuries Compensation Authority
ECNI	Equality Commission for Northern Ireland
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organisation
ILPA	Immigration Law Practitioners' Association
IOM	International Organisation for Migration
IPU	Inter-Parliamentary Union
MRCI	Migrant Rights Centre Ireland
NIHRC	Northern Ireland Human Rights Commission
NIO	Northern Ireland Office
OCTF	Organised Crime Task Force
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Co-operation in Europe
PSNI	Police Service of Northern Ireland
SOCA	Serious Organised Crime Agency
UKHTC	United Kingdom Human Trafficking Centre
UKBA	UK Border Agency

1. Introduction

In mid-2008, the Northern Ireland Human Rights Commission (NIHRC) and the Equality Commission for Northern Ireland (ECNI) jointly commissioned the Institute for Conflict Research (ICR) to conduct a scoping study into the nature and extent of human trafficking in Northern Ireland. The purpose of the study was to *“increase the knowledge of the commissioning organisations about trafficking and identify the appropriate steps that might be taken to respond to this issue”*.

To this end, the NIHRC and ECNI requested ICR to consider the available evidence on the nature and extent of trafficking of women, men and children for the purposes of sexual exploitation and forced labour. While the study was designed to focus on the trans-national aspect of the problem, evidence of internal trafficking was also to be noted if found during the course of the research.

The terms of reference required the researchers to include the following elements within the study:

1. Consideration of the available data in Northern Ireland, including the analysis of the methods of data collection (if any) and any issues that influence the process of reporting and data collection; and comparisons with data available for England, Scotland and Wales in this respect
2. Engagement with statutory bodies and voluntary service providers and other relevant organisations and individuals who provide support or advice
3. Analysis of the models of practices in other UK jurisdictions in the provision of safety and support for victims of trafficking and
4. Provision of recommendations for further action in relation to data collection, service provision, possible anti-trafficking strategies and appropriate legislative approach.

The three main components to the study were:

1. Review of available literature

To enable the findings to be discussed within the context of existing research, a literature review was conducted at the beginning of the project. While focusing mainly on research referring to Northern Ireland, Great Britain and the Republic of Ireland, it included a brief review of relevant literature from other European countries as well as from the USA. In particular, the review looked at:

1. Academic research
2. Media reports
3. Reports of inquiries by national parliaments (for example, the inquiry by the UK's Joint Committee on Human Rights)
4. Research published by Government Departments and statutory agencies

5. Research and policy documentation produced by bodies such as the United Nations, European Union, Council of Europe and the Organisation for Security and Co-operation in Europe.
6. Research and other material by international organisations and other bodies
7. Research and materials published by advocacy, advice and support groups such as Anti-Slavery International, Amnesty International, the International Labour Organisation and
8. Quantitative data collected by law enforcement agencies and others in relation to cases of human trafficking.

2. Legislation and policy review

The legislation and policy review included an analysis of relevant documents in the United Kingdom and the Republic of Ireland, as well as a comparative review of legislation and policy developments in other European countries relating to trafficking in human beings. This part of the review provided an overview of definitions used in national legislation in various states; methods of victim identification; data protection regulations; residence and immigration regulations; victims' rights to assistance; victims' rights in the legal process; compensation; international co-operation; issues and regulations specific to the trafficking of children; prevention and investigation. The review also included a brief study of international human rights instruments and other relevant documents to establish human rights standards applicable to this area and best practice directives on an international level.

3. Qualitative, semi-structured interviews

The research included face-to-face as well as phone interviews with, and one written submission from, 24 individuals with practical or policy experience in the areas of human trafficking in Northern Ireland, the provision of legal advice and the provision of support services. The interviewees included representatives of support organisations; advice organisations; law enforcement agencies; trade unions; political representatives, and legal practitioners. The interviews were based on a semi-structured interview protocol. Not all questions were relevant to all organisations and occasionally due to the largely limited experience of practical engagement with victims of trafficking, the interviews had to be re-designed to meet the interviewees' knowledge and experience.

Challenges of research into trafficking

Trafficking is an extremely challenging topic around which to conduct research, not least because the hidden nature of activities makes it difficult for researchers to access individuals and collect data, particularly quantitative data. This is linked to the risks and dangers related to disclosure, as well as to the criminal and hidden nature of trafficking and the difficulty facing the police and other organisations.

Because of the illegal and hidden nature of slavery, figures for its extent remain contested... human trafficking is notoriously difficult to measure in quantitative terms (Craig et al. 2007, p.21)

To avoid putting people at risk, researchers need to follow strict confidentiality guidelines. The study was therefore governed by a Confidentiality Protocol agreed with an advisory group constituted to assist the project, and presented to each interviewee. In accordance with the Protocol, all records of interviews have been anonymised and individuals who were interviewed are not named in the report. Due to the small number of interviews, the report does not refer to actual organisations by name, but rather identifies the type of employment with which the individual is associated, for example 'law enforcement officer' or representative of an 'advice and support organisation'.

Structure of the report

The report is organised as follows:

- Chapter 2 looks at the definition of trafficking in international law and practice
- Chapter 3 analyses the available evidence of the extent of trafficking both globally and nationally prior to this study
- Chapter 4 considers the evidence collected during the research regarding the current nature and extent of trafficking in Northern Ireland
- Chapter 5 describes legal frameworks and policy solutions developed by various international bodies and organisations, including governments in selected jurisdictions
- Chapter 6 outlines selected policy initiatives and models of good practice
- Chapter 7 outlines findings in relation to procedures for identification of victims and service provision currently available in Northern Ireland
- Chapter 8 sets out policy recommendations, along with the authors' suggestions for further consideration of work in this field by the ECNI and NIHRC.

Chapter 2. Trafficking in Human Beings

The following section discusses the internationally agreed definitions of trafficking in human beings. It further discusses individual elements of such definitions and provides information about forms of trafficking encountered at international and national levels. This section also outlines the definition of a victim and briefly discusses the profile of victims.

International definitions of trafficking

Although a number of earlier international agreements and conventions addressed what was formerly referred to as white slavery, the first major United Nations instrument referring to trafficking in human beings for the purpose of sexual exploitation was the *UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others* (the 1949 Convention).⁴

The 1949 Convention did not define trafficking as such, instead condemning prostitution and trafficking on the grounds that they both were ‘immoral’ activities that needed to be targeted by law enforcement agencies in Member States who were signatories to the Convention. Until the adoption of the *UN Convention against Transnational Organised Crime* and its complementary *Protocols*,⁵ international law did not contain an agreed definition of this problem.

The key elements of an international definition of trafficking were set out in 1999:

Despite divergent definitions, there is a growing agreement that the problem of trafficking in human beings involves two key elements: recruitment/ transport and forced labour/slavery. Moreover most experts agree that trafficking should be defined as involving deception or coercion of some kind (OSCE/ODIHR 1999, p.3).

The drafting of a new Convention was welcomed as an opportunity to set out clear criteria in relation to trafficking:

...civil society and especially women’s rights advocates saw the emergence of the Trafficking Protocol as a unique opportunity to influence the first internationally-accepted definition of trafficking and ensure that any anti-trafficking instrument considered protection of rights of trafficked persons (Pearson 2005, p.23).

4 Some earlier instruments, dating from 1904, 1910, 1921, 1933, 1947 and 1948, and an unsuccessful attempt to develop a League of Nations convention in 1937, are referenced in the Preamble to the 1949 Convention. Other relevant instruments addressed the suppression of slavery.

5 The United Nations Convention against Transnational Organised Crime (sometimes referred to as the Palermo Convention); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (known as the Palermo Trafficking Protocol); and the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Palermo Smuggling Protocol), were adopted by General Assembly Resolution 55/25 on 15 November 2000. The Convention and the Trafficking Protocol entered into force in 2003, and the Smuggling Protocol in 2004. Another Protocol deals with illicit trade in arms.

The *Protocol to Prevent, Suppress and Punish Trafficking in Persons* (the Palermo Trafficking Protocol) was signed in 2000 by over 80 countries after two years of intense negotiations. Trafficking is defined in Article 3 of the Palermo Trafficking Protocol through three main elements: recruitment, movement and the occurrence of exploitation:

- a. *‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*
- b. *The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*
- c. *The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article;*
- d. *‘Child’ shall mean any person under eighteen years of age.*

The former UN Special Rapporteur on trafficking stated in 2006 in her analysis of the elements of the above definition that the Protocol definition “*establishes four elements in defining trafficking: act, means, end result and victim status*”.⁶ Accordingly, four elements have to be present:

1. An act, that is, the recruitment, transportation, etc
2. The use of specified means such as threat or use of force, other forms of coercion, etc
3. The end result must be the exploitation of the person (at a minimum, it has to be one of the forms listed in Article 3) and
4. The status of the victim as an adult or a child is important because in the case of child victims the means element “becomes irrelevant, and the question of whether trafficking has occurred will be determined solely by reference to the act and end result elements.”⁷

The definition based on those four elements will be the working definition for the current study.

6 Economic and Social Council (2006) Integration of the Human Rights of Women and a Gender Perspective: Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Sigma Huda. E/CN.4/2006/62.

7 Ibid, page 8.

Means of coercion

In relation to all forms of trafficking, the Immigration Law Practitioners' Association (ILPA 2008) identified several ways in which traffickers control their victims:

- 1. Violence:** *threats of violence to the trafficked person or, not uncommonly, to family members including those overseas;*
- 2. Debt bondage:** *using a bond or debt to keep a person under subjugation; this can mean exploitation of an initial debt (for instance, money paid for employment arrangements and travel), or inherited debt (family debt);*
- 3. Restrictions on freedom of movement:** *these include physical confinement and confiscation of documents such as passports;*
- 4. Instilling fear of authority:** *for example, saying national police are in the pay of traffickers, or that if the trafficked child goes to the police s/he will be imprisoned/ deported;*
- 5. Isolation:** *for example, through preventing contact with the outside world, either personally or through other means such as telephone or internet;*
- 6. Emotional attachment:** *for example, the exploitation of the child's attachment to a carer;*
- 7. Religion and magic:** *in certain cases, from some countries, there is purported use of religion and magic, along with initiation ceremonies and threats of harm, if the person seeks to escape the bond with the traffickers. It is alleged that some churches have been implicated in trafficking (ILPA 2008, p.7).*

Means of coercion are mechanisms that contribute to perpetuating trafficking.

Looking at trafficking for forced labour specifically, in the context of the UK, Skrivankova (2006) identified three main coercive factors:

- 1. Retention/withholding of identification documents:** *some workers (in particular those who come from outside Europe) have their passports taken away immediately after arrival to the UK, often for alleged security reasons. Others have lost their documents through more sophisticated methods applied by the agents/ gangmasters/employer. The retaining or withholding of documents is also often connected to arranging formalities, such as obtaining a national insurance number, extending a visa extension or work permit. In such cases, the identity documents were handed over by the workers who wanted to comply with the requirements, but who were deceived when the agent (gangmaster or employer) failed to arrange these and instead kept the documents, thus making the workers stay illegally in the country and increasing their dependence on them and the employment. In some cases, their documents might be replaced with false ones, making the worker liable for prosecution if discovered by the authorities.*

- 2. Debt bondage:** *a person is in debt bondage if s/he works to pay off a debt or loan and is not paid [or paid very little] for the work carried out. The employer may provide food and accommodation at such inflated prices that the worker cannot escape the debt. Many migrant workers borrow money for travel and to finance getting settled in the UK... the interest rate on such a loan is often so excessive that, given the fact that there are probably further deductions made from the worker's wages for accommodation, transport etc, s/he does not have any real chance to repay the debt and survive at the same time... If the worker's wages are withheld or lower than agreed, s/he will also be trapped, either fearing to leave the exploitative employment or in fact hoping that s/he will eventually earn more and so be able to pay the debt.*
- 3. Threats:** *different types of threat include threats of violence, threats of reporting them to the authorities (for staying illegally or failing to register), intimidation by threatening to punish the worker if they complain about working conditions or pay, or for demanding access to their rights. Sexual harassment, abuse and threats of sexual violence is a means of coercion specifically used for women (Skrivankova 2006, p.17).*

Forms of trafficking in human beings

The US Department of State's Trafficking in Persons Report (2008) enumerates nine major forms of activity:

- 1. Forced labour:** *...may involve individuals who subject anyone from one to hundreds of workers to involuntary servitude, perhaps through forced or coerced household work or work at a factory... these workers are made more vulnerable to forced labour practices because of unemployment, poverty, crime, discrimination, corruption, political conflict, and cultural acceptance of the practice.*
- 2. Bonded labour:** *The use of a bond, or debt, to keep a person under subjugation... Many workers around the world fall victim to debt bondage when traffickers or recruiters unlawfully exploit an initial debt the worker assumed as part of the terms of employment, or when workers inherit debt in more traditional systems of bonded labour.*
- 3. Debt bondage and involuntary servitude amongst migrant labourers:** *Three potential contributors can be discerned: 1) Abuse of contracts; 2) Inadequate local laws governing the recruitment and employment of migrant labourers; 3) The intentional imposition of exploitative and often illegal costs and debts on these labourers in the source country or state, often with the complicity and/or support of labour agencies and employers in the destination country or state... Costs imposed on labourers for the 'privilege' of working abroad can place labourers in a situation highly vulnerable to debt bondage. However, these costs alone do not constitute debt bondage or involuntary servitude. When combined with*

exploitation by unscrupulous labour agents or employers in the destination country, these costs or debts, when excessive, can become a form of debt bondage.

- 4. Involuntary domestic servitude:** *Domestic workers may be trapped in servitude through the use of force or coercion, such as physical (including sexual) or emotional abuse... domestic servitude is particularly difficult to detect because it occurs in private homes.*
- 5. Forced child labour:** *Any child who is subject to involuntary servitude, debt bondage, peonage, or slavery through the use of force, fraud or coercion is a victim of trafficking in persons regardless of the location of the exploitation.*
- 6. Child soldiers:** *Involves the unlawful recruitment of children through force, fraud, or coercion to be exploited for their labour or to be abused as sex slaves in conflict areas. Such unlawful practices may be perpetuated by government forces, paramilitary organisations, or rebel groups... Many children are abducted to be used as combatants. Others are made unlawfully to serve as porters, cooks, guards, servants, messengers, or spies. Many young girls are forced to marry or have sex with male combatants and are at high risk of unwanted pregnancies. Male and female child soldiers are often sexually abused and are at high risk of contracting sexually transmitted diseases.*
- 7. Sex trafficking and prostitution:** *Sex trafficking comprises a significant portion of overall trafficking and the majority of transnational modern-day slavery.*
- 8. Children exploited for commercial sex:** *The commercial exploitation of children is trafficking, regardless of circumstances... there can be no exception, no cultural or socio-economic rationalisations that prevent the rescue of children from sexual servitude.*
- 9. Child sex tourism:** *involves people who travel from their own country – often a country where child sexual exploitation is illegal or culturally abhorrent – to another country where they engage in commercial sex acts with children... The commercial sexual exploitation of children has devastating consequences for minors, which may include long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possibly death. Tourists engaging in CST often travel to developing countries looking for anonymity and the availability of children in prostitution. (US Department of State 2008, pp. 19-25)*

Trafficking and smuggling - similarities and differences

From a legal perspective it is important to distinguish between smuggling of people across borders and trafficking. Harvey (2008) defines smuggling as:

...the clandestine movement of people across borders. It is a crime against the State. People hide in vehicles, or use false documents, to cross borders. Many are brought by an agent, or smuggler and disrupting smuggling routes is a key concern of those involved in migration control (Harvey 2008, p.1).

On the other hand, trafficking involves:

...the movement of people in order to exploit them. It is a crime against the individuals concerned. It need not involve clandestine measures: some people move on their own passports (Harvey 2008, p.1).

Internal versus cross-border human trafficking

In the literature, two elements differentiate internal trafficking and cross-border trafficking: a) the act of the crossing of borders and b) the status of the victim.

a. Crossing a border: It is widely accepted that trafficking can be either a cross-border or an 'internal' activity, with internal trafficking referring to the movement of people within the same country, i.e. within national boundaries, in order to exploit them:

The element of transportation is not decisive. A person does not have to cross a border between countries to have been trafficked (Home Office 2005).

In the UK, the Home Office emphasises the need to take domestic trafficking into account when drafting laws and national initiatives to combat human trafficking:

...movement of a victim for exploitation within the UK can amount to trafficking. Many of the respondents to the consultation [on the UK National Action Plan] highlighted the need to encompass domestic or 'internal' trafficking within any end-to-end strategy (Home Office and Scottish Executive 2007).

b. Status of the victim: In the UK, the Home Office (2005) and the UK Human Trafficking Centre (UKHTC) include country nationals as potential victims of internal trafficking:

The definition of trafficking in people covers exploitation within a country: it applies to cases of UK women and children who are moved around the country, sold between exploiters, and subject to deception and coercion (Home Office 2005).

Internal trafficking is the grooming of UK-national females for the purpose of sexual exploitation. Girls and women are trafficked between towns and cities in the UK (UKHTC n.d.).

Victims of trafficking

The Palermo Trafficking Protocol does not offer an explicit definition of ‘victim’, but may be seen in practice to adopt the approach reflected in the Council of Europe Convention, which provides (at Article 4(e)):

‘Victim’ shall mean any natural person who is subject to trafficking in human beings as defined in this article.

Despite the fact that the Palermo Trafficking Protocol is generally seen as a sign of a growing international consensus that trafficking needs to be addressed, some argue that definitions are still not fixed and, in particular, the issue of who is a ‘victim’ of trafficking is not yet sufficiently defined:

Despite an internationally accepted definition of trafficking, following the adoption of the Palermo Protocol, national law and practice are still often unclear as to what constitutes the crime of trafficking and who the victims of trafficking in fact are (Scanlan 2007, p.4).

The definition of a ‘victim’ impacts on the effectiveness of protection mechanisms put in place nationally and internationally. One element that is widely agreed upon is the *special vulnerability* of women and children in this area.

For Erdelmann (2005), gender segregation within societies, particularly in relation to particular sectors of employment, triggers the special vulnerability of women:

Many female migrants are more vulnerable to human rights abuses and exploitation than their male counterparts since they tend to work in gender-segregated, often unregulated and unprotected sectors of the economy. Furthermore, they work in unskilled jobs, earn low wages and have no job security or social benefits. Female migrants often lack access to networks that enable them to migrate without being subject to traffickers (Erdelmann 2005, p.15).

The United Nations Children's Fund and the Inter-Parliamentary Union (2005) agree that eight factors contribute to making children vulnerable to trafficking:

1. Poverty
2. Inequality of women and girls in societies
3. Low school enrolment in the country of origin;
4. Lack of parental care or of any care
5. Lack of birth registration in the country of origin
6. Humanitarian disasters and armed conflict
7. Demand for exploitative sex and cheap labour and
8. Traditions and cultural values.

As more is discovered about exploited labour, there is some evidence of an increasing incidence of trafficking in men. In the recent report on the trafficking of men from Ukraine and Belarus, the International Organisation for Migration (IOM) noted:

To date, trafficking in males has been underconsidered in research despite noteworthy signals that it is a violation faced by many males, adult and minors. Often severely exploited male migrants are overlooked, with women and children recognised most commonly as victims of trafficking.⁸

The report notes that over 28% of victims assisted by the IOM in Belarus, and over 17% of persons assisted in Ukraine between 2004 and 2006, were men and boys trafficked primarily for forced labour.

Trafficking is difficult to identify not least because it is difficult to define. It can encompass women, men and children, internal or cross border activity, and a range of activities, mostly clandestine, to facilitate increasing levels of coercion or exploitation. Note also that the definition and resulting identification are complex as an individual may experience treatment that meets the threshold of legal definitions of trafficking, but not realise that s/he is trafficked, or entitled to the protection of the state as a victim of such serious exploitation and coercion. These issues all make trafficking very difficult for observers, law enforcement officers, service providers, or indeed victims themselves to identify which in turn complicates the process of assessing the nature and extent of the problem.

In the following chapters, the report considers the available evidence on the nature and extent of trafficking of women, children and men in Northern Ireland, focusing on trans-national trafficking for the purposes of sexual exploitation and exploited labour, and using the working definition as explained previously as the basis of this study. Any evidence of internal trafficking will also be noted. To put the findings in the wider context, the report firstly looks at the available data on the nature and extent of trafficking not only in this jurisdiction, but also globally, in the UK as a whole and the Republic of Ireland.

⁸ Surtees, R. (2008) Trafficking of men – a trend less considered. The case of Belarus and Ukraine, Vienna: IOM.

Chapter 3. National and International Context

One of the aims of the current study was to place the research in the context of information available to date regarding the nature and extent of human trafficking, globally and locally. The following chapter, therefore, reviews data available prior to the current study with respect to global estimates, the nature and extent of trafficking on the European level, data available in relation to the UK as a whole, the Republic of Ireland and Northern Ireland in particular. The chapter also discusses the types of trafficking observed in the various jurisdictions, as well as recording information about the available sources of data.

Human trafficking at the global level

Due to the hidden nature of the problem, the actual extent of human trafficking, both globally and on a national scale, is unknown. Two main sources provide global estimates of the extent of human trafficking: the US Department of State and the International Labour Organisation (ILO). Whilst figures provided by the ILO refer to the number of victims of both internal and cross-border trafficking, figures provided by the US Department of State do not include potentially large numbers of people trafficked 'internally' within countries. Therefore, there is a significant difference between ILO and US Department of State estimated figures.

Estimates provided by the ILO highlight that at any given time, 12.3 million people are in forced labour, bonded labour, forced child labour or sexual servitude (US Department of State 2008, p.7). The ILO estimated that of this number, as many as 2.4 million were victims of human trafficking.⁹ The US Department of State estimated in 2006 that about 800,000 people were trafficked each year across international borders (US Department of State 2008, p.7). In terms of those perpetrating these crimes, the BBC recently reported that 2.5 million people were recruiting, entrapping, transporting and exploiting victims each year (BBC News 2008). It is important to emphasise that there are other figures, provided by various agencies, based on different methodologies that are not always made clear. Data therefore differs vastly depending on the source. Womensphere, a website on 'Global women's news, views and issues', asserted for example that *27 million people are trafficked each year* without explaining how this was calculated (Womensphere 2008).

Belser (2005) estimated the profits made from forced labour and human trafficking worldwide based on the assumptions made in the ILO figures. The report distinguished between forced economic exploitation and forced commercial sexual exploitation and, within these categories, between exploitation in general and exploitation as a result of trafficking specifically.

⁹ This figure of 12.3 million, sometimes referred to by the ILO as "an absolute minimum", was drawn from work by the ILO's Special Action Programme to Combat Forced Labour (SAP-FL) and its Policy Integration Department, resulting in the Director General's 2005 Global Report, A Global Alliance against Forced Labour (Geneva: ILO).

Estimates for the year 2005 showed that for 8.1 million forced labourers in economic exploitation, total profits reached US\$10.4 billion each year,¹⁰ whilst for 1.1 million victims of trafficking for forced economic exploitation, total profits per year amounted to US\$3.8 billion.¹¹ Looking at profits made from forced commercial sexual exploitation, Belser estimated that for 1.7 million people in forced prostitution, profits throughout the world amounted to US\$33.9 billion.¹² Total estimated annual profits amounted to US\$27.8 billion for 1.4 million trafficked people in forced commercial exploitation.¹³ Overall, global profits made each year from 9.8 million forced labourers were estimated to amount to US\$44.3 billion;¹⁴ and global profits from the world's 2.5 million trafficked forced labourers were estimated at US\$31.6 billion per year.¹⁵

A comparison of the most recent figures with previous data would lead to the conclusion that the number of victims of trafficking has greatly increased in the past few years. In 2005, the ILO estimated the number of people subjected to forced labour to be 12.3 million people of whom 2.45 million were trafficked internally or across borders, while the US Department of State reported that 800,000 people were victims of cross-border trafficking in 2006 in comparison to between 600,000 and 800,000 in 2005. The increase in the estimated number of victims of trafficking may partly be explained by the fact that the techniques and methodology used to establish estimates are becoming more precise (Kutnick et al. 2007; Belser et al. 2005).

New communications technologies play a significant role in increasing the levels of human trafficking globally. Those technologies include common web sites, but also newsgroups (internet discussion groups that can be used to convey information on where to find children/adults to be bought for the exploitation of prostitution) (Council of Europe 2003, p.14);¹⁶ chat rooms (a space on the internet where real time synchronous communication can take place, either publicly or privately);¹⁷ and peer-to-peer networks and file swapping programmes that allow the transfer of data directly from one computer to another.

10 The profits are highest in industrial countries and Latin America (about US\$3.5 billion each). In Asia, profits are slightly lower (US\$2.5 billion) despite the high number of victims (Belser 2005).

11 The profits are believed to be highest in industrial countries (US\$2.2 billion). In the other regions, estimated profits vary between US\$40 million in Sub-Saharan Africa and US\$776 million in Latin America (Belser 2005).

12 Asia is the region with the second highest estimated profits (US\$11.2 billion), followed by transition countries (US\$3.5 billion), Latin America (US\$2.1 billion), and Middle-East and North Africa (US\$1.1 billion). Sub-Saharan Africa is the region where these criminal profits are thought to be lowest (US\$0.5 billion) (Belser 2005).

13 Almost half of all profits – US\$13.3 billion – are thought to be generated by people trafficked into or within industrial countries. Second highest estimated profits are in Asia (US\$9.5 billion), followed by transition economies (US\$3.2 billion), Middle-East and North Africa (US\$1.0 billion), Latin America (US\$0.6 billion) and Sub-Saharan Africa (US\$0.1 billion) (Belser 2005).

14 This represents roughly US\$4,500 per victim per year. The largest profits are thought to be made in industrial countries (US\$18.8 billion), followed by Asia (US\$5.7 billion) and transition countries (US\$3.6 billion). The two regions where estimated profits are lowest are the Middle East and North Africa (US\$1.6 billion) and Sub-Saharan Africa (US\$0.7 billion) (Belser 2005).

15 This represents an estimated annual average of US\$13,000 per victim. Thus, profits are higher with trafficked victims than with non-trafficked victims. Profits are by far the highest in industrial countries (US\$3.4 billion) and Middle East and North Africa (US\$1.5 billion). The two regions where estimated profits are lowest are Latin America (US\$1.3 billion) and Sub-Saharan Africa (US\$0.1 billion) (Belser 2005).

16 Quayle, Holland, Linehan and Taylor (2000) found that over 1,000 illegal images were being posted on newsgroups each week.

17 Two main features make chat rooms an instrument of choice for recruiters: "No messages are archived or stored and no log files are maintained, as is done with emails or Web accesses, so stalkers use them to look for victims... One of the friendly features of ICQ that can have dangerous implications for children being stalked is the instant alert message that is sent out when one of the user's 'buddies' log on to the Internet" (Council of Europe 2003, p.18).

As the information is usually not recorded permanently on servers but only passes through the internet, transmissions and therefore users are not easily traceable. New technologies have therefore contributed to the increase of activities linked to trafficking. Communication amongst traffickers and pimps, and between pimps, pornographers and users, is more discrete and anonymous. Perpetrators of trafficking can contact victims through the internet and images of abuse are also transmitted through the internet (Council of Europe 2003).

Human trafficking in Europe

As is the case globally, trafficking in human beings in Europe encompasses adults transported for sexual exploitation and for forced labour, as well as trafficking in children for both of those purposes. Various European regional institutions are active in initiatives aimed at combating all forms of trafficking. As in national jurisdictions they base their actions on estimates of the extent of this problem. In 2000, the European Parliament's Directorate General for Research (2000) estimated that since the end of Communism in Eastern Europe, illicit trade in human beings had grown to the extent that by 2000 as many as 500,000 women were being trafficked from East to West and sold into prostitution each year (European Parliament Directorate General for Research 2000, p.12, quoted in Ward and Wylie 2007, p.20).

According to Pillinger (2007, p.8), the European Commission (2001) estimated that 120,000 persons were trafficked into and inside Europe each year. The number of prosecutions for trafficking for the purposes of sexual exploitation increased throughout the years, and in 2005, there were 2,598 prosecutions and 1,984 convictions for trafficking across the European Union. Although quite significant, the number of prosecutions for labour exploitation within the European Union has been criticised as being very low, particularly in comparison to the number of cases taken against traffickers in the USA in recent years. In one of the background papers prepared for the Alliance against Trafficking High-Level Conference in 2006 the authors remark that:

*In general, few cases of trafficking for forced labour exploitation are detected, few victims are identified and protected, and few perpetrators are actually prosecuted and convicted.*¹⁸

18 OSCE (2006) A Summary of Challenges Facing Legal Responses to Human Trafficking for Labour Exploitation in the OSCE Region, OSCE Occasional Paper Series Number 1 (available at http://www.osce.org/publications/cthb/2008/01/23622_811_en.pdf).

The Organisation for Security and Co-operation in Europe (OSCE) acknowledges that there are a number of reasons for the lack of prosecutions. These reasons include:

- a. The concept of trafficking for forced labour is relatively new
- b. Member States of the OSCE have not all criminalised the concept or have done so only recently
- c. Cases of trafficking for forced labour are rarely identified because the crime is inherently underground due to the victim's legal status and/or the sectors they work in
- d. There is a lack of familiarity with the relevant indicators by law enforcement agencies in the Member States
- e. There is a disproportionate focus on an individual's immigration status rather than on the conditions of their exploitation
- f. Regulatory bodies have fragmented frameworks and do not co-ordinate with each other (for example, co-operation is difficult between labour inspections, and the police or immigration authorities)
- g. There is no central clearing point for monitoring and analysing the cases at national level (for example by a National Rapporteur) or internationally
- h. Lack of resources committed to detection and identification of cases, as well as to the protection of victims and the training of officials does not permit an adequate response and
- i. There are inherent evidential difficulties for police and prosecutors in establishing a criminal offence of such complexity to the standard of proof required.¹⁹

Human trafficking in the United Kingdom²⁰

The *UK Action Plan on Tackling Human Trafficking* documents four types of trafficking that are known, or suspected, to be occurring in the UK. These are: trafficking for sexual exploitation, trafficking for forced labour, trafficking in children and trafficking within national borders (internal trafficking). In the *UK Action Plan* the Government stated that prior to its publication, the focus of anti-trafficking activities in the UK was on sexual exploitation. The Government recognised that more needs to be done, particularly in relation to trafficking for forced labour, and trafficking in children in particular. Prior to the establishment of the UK Human Trafficking Centre in October 2006, there was no centralised system of collecting data on human trafficking in the UK. Publicly available data, however, continues to be provided mainly on a research basis rather than through access to centralised statistics. The UK is known more as a destination country than as a country from which victims of trafficking originate:

The UK is a destination and to a lesser extent transit country for women, children, and men trafficked for the purpose of commercial sexual exploitation and forced labour. Some victims including minors from the UK are also trafficked within the country (US Department of State 2008, p.255).

¹⁹ Ibid., at pages 4-5.

²⁰ Data from UKHTC and the US Department of State included in this section refers to the UK as a whole, while the rest of the research data refers to Great Britain only. Data specific to Northern Ireland is included in the next section.

The routes taken by traffickers have been more or less identified by police forces and other statutory agencies, as well as by voluntary organisations in the UK, as depending on the country of origin of the victims:

Depending upon their country of origin the routes may differ. However the traffickers are only concerned with profit and usually choose the cheapest routes possible (UKHTC 2007).

The majority of trafficking victims originate from Eastern Europe, the Baltic States, the Balkans or the Far East, especially China, Malaysia and Thailand (UKHTC 2007). High on the list of countries of origin are Lithuania, Russia, Albania, Ukraine, Nigeria and Ghana (US Department of State 2008, p.255). In 2007, some NGOs found that there was an increase in women identified as trafficked for the purpose of sexual exploitation from Nigeria and the People's Republic of China (US Department of State 2008).

In addition to the actual trafficking of the individual from one location to another, further illegal practices include the withholding of migrant domestic workers' passports by employers (Kalayaan 2003),²¹ the charging of fees by employment agencies for arranging work that puts migrant workers in debt bondage, and deductions from wages for workers' registration, visa extension, or national insurance (Skrivankova 2006):

Migrant workers are trafficked to the UK for forced labour in agriculture, construction, food processing, domestic servitude and food service... Law enforcement operations increasingly reveal a large percentage of the trafficking problem in the UK occurs hidden in residential areas throughout the country (US Department of State 2008, p.255).

It is important to re-emphasise that because of the hidden nature of human trafficking, there is no detailed data on the extent of the issue in the UK, or indeed elsewhere. In 2003, research commissioned by the Home Office estimated that approximately 4,000 people were victims of trafficking for prostitution in the UK. Indeed, this lack of reliable and up to date information is highlighted by the fact that the numbers provided by the 2008 US Department of State Trafficking in Persons Report still refer to the Home Office (2003) data:

British police estimate that up to 4,000 trafficked persons, primarily women, are being exploited in the UK at any given time (US Department of State 2008, p.255).

21 49% of domestic workers registered with the NGO Kalayaan between 2001 and 2003 had their documents taken by their employers (Kalayaan 2003).

That report further notes that:

In 2007, UK police referred 259 trafficking victims to one service-providing organisation for shelter and assistance... Out of 888 adult women victims referred to its specialised trafficking shelter, only 181 victims were accommodated by the limited capacity facilities, with an additional 141 assisted on a non-resident basis only. Some of the remaining 566 victims who were not accommodated at the shelter did not meet all the government's criteria for admission (US Department of State 2008, p.255).²²

Further data is either research-specific or operation-specific. In 2006, 84 victims of trafficking were identified as a result of Operation Pentameter 1,²³ during which approximately 10% of the estimated number of sex establishments in the country were visited (UKHTC 2007). Additional data is provided in a newspaper audit carried out on 18 October 2006 by the Central Office of Information in Great Britain. The audit focused on the advertising of women in small ads in local newspapers throughout Britain. Findings from the survey showed that:

Almost 75% of publications reviewed in [the] sample carried advertisements mentioning services from women, and almost half carried classifieds specifically mentioning non-British women. It is not possible to identify which of these classifieds, if any, are advertising trafficked women based on their contents (COI 2008, p.26).

Data specifically on child trafficking shows that:

In a limited study that revealed 80 reported cases of known or suspected child trafficking to the UK in the previous three years, some 60% of victims were found to have disappeared from social services centres. Another study conducted by the government in 2007 identified a minimum of 330 individual cases of children trafficked into the UK (US Department of State 2008, p.256).

Conducting research into forced labour in the UK during 2005-06, Skrivankova was able to identify and interview 27 trafficked persons. Interestingly, she found forced labourers from the same country concentrated in specific industries:

Among the 27 trafficked people were nationals from European, African, South American and Asian countries. However, certain nationalities were concentrated in particular industries. For example, trafficking into agriculture mainly affected individuals from Central and Eastern Europe (Skrivankova 2006, p.1).

²² See: UK Government Initiatives to Combat Trafficking: the Poppy Project.

²³ Operation Pentameter is a UK-wide police-led inter-agency programme to investigate and disrupt human trafficking, concentrating initially on trafficking for the purposes of sexual exploitation; see <http://www.pentameter.police.uk/index.php>.

At the beginning of July 2008, a preliminary account was given of the outcome of Operation Pentameter 2. Over the six months of the Operation, which Home Secretary Jacqui Smith hailed as “the largest-ever crackdown of its kind” (Press Association 2008):

About 167 victims, including 13 children aged between 14 and 17, were rescued across Britain and Ireland, and 528 suspected traffickers were arrested (BBC News 2008).²⁴

Some indication of the scale of trafficking can be seen not only in the number of arrests or police operations, but also in the number of cases that have reached the courts. Although the number of prosecutions does not reflect the actual extent of trafficking it is a useful indicator of the way the issue is addressed in the UK:

In 2007, the government reported it initiated prosecutions involving at least 52 suspected trafficking offenders. Although the government reported 75 ongoing prosecutions during the previous reporting period, it convicted only 10 trafficking offenders in 2007, a significant decrease from 28 convictions obtained in 2006. Sentences imposed on convicted trafficking offenders in 2007 ranged from 20 months' to 10 years' imprisonment, with an average sentence of four years. In January 2008, police arrested 25 members of Romanian organised crime organisations using Romanian children, including a baby less than a year old, as pickpockets and in begging schemes (US Department of State 2008).

Human trafficking in the Republic of Ireland

As in other jurisdictions, trafficking in the Republic of Ireland is reported to include trafficking for sexual exploitation, trafficking for labour exploitation, and trafficking in children for both those purposes. As in the case of the UK, or any data gathered on a regional level, most information about the extent and nature of trafficking in human beings is derived from academic research, research undertaken by support organisations, and information collected by the media.

A BBC News report in 2007 featured a member of an organised criminal gang who stated that their preferred route for smuggling children from Bulgaria to Britain was across land through France and the Republic of Ireland, with Rosslare being the port of entry into the country (independent.ie 2007; RTÉ News 2007). A Welsh Assembly Government Report in 2007 confirmed this finding:

²⁴ However, to illustrate the caution with which such preliminary statistics should be treated, it has since been reported that the actual number of Pentameter 2 arrests (in 822 raids) was 406, of which number 106 persons were released without charge, 47 were cautioned for minor offences, 73 were charged with immigration offences, and 76 were convicted of non-trafficking offences. Of the 96 people arrested for trafficking offences, 67 were charged but only 22 prosecutions proceeded, resulting in just 15 convictions for trafficking, of which five cases involved coercion: UKHTC report cited in ‘Biggest sex slavery inquiry failed to net single trafficker’, The Guardian (20 October 2009).

Traffickers are finding the 'classic' routes into Britain – ferries from France or through the larger London airports – increasingly difficult to get through due to heightened security. So they are now looking to other points of entry, with the Ireland-Wales ferry links a major alternative (independent.ie 2007).

Cork was also found to be a popular transit region for traffickers, and indeed this was one of the reasons behind the decision to establish the Cork Stop Sex Trafficking Campaign in 2006. Although Dublin is a major area where trafficked persons are forced to work, it is said that more than half of the women trafficked into the Republic of Ireland are forced to work in rural areas:

The reality is pimps are trafficking women into the country and women into very remote areas... It shows we have a serious trafficking problem which is not just urban based (Press Association, 30 June 2008, quoting Geraldine Rowley from Ruhama).

A Justice Ministry report published in May 2006 indicated that criminals from Bulgaria, Lithuania and Romania were involved in the trafficking of people into the Republic of Ireland (Eubusiness 2006).

The US Department of State (2008) provides the following overview of the current state of human trafficking in the Republic of Ireland:

Ireland is a destination country for women, men and children trafficked for the purpose of commercial sexual exploitation and forced labour... an Irish NGO reported that most forced labour victims are found in domestic labour, and restaurant and agricultural work. Unaccompanied minors from various source countries, particularly from Africa, represent a vulnerable group in Ireland that may be susceptible to trafficking and exploitation (US Department of State 2008).

Although the actual number of victims trafficked into the jurisdiction is unknown, recently the number of women being trafficked into the Republic of Ireland and sexually exploited is thought to have increased. Ward and Wylie (2007) stated that between 2000 and 2006, there had been a minimum of 76 cases of sex trafficking with the largest number of cases recorded between 2003 and 2006. The majority of the victims originally came from Eastern Europe, although the dominant national grouping was from Nigeria. Ward and Wylie (2007) stated that women from the former Soviet bloc constituted a majority of the 107 women found by the Garda Síochána²⁵ during raids on lap-dancing clubs (as part of Operation Quest) in June 2005 and amongst women found as a result of brothel raids in Dublin in 2007.²⁶

25 The Republic's police service.

26 Irish Times, 19 May 2007.

Ward and Wylie (2007) reported at the time that 36 of these women had disappeared, 14 had been repatriated, and 22 had been granted leave to remain or were in the asylum process in the Republic of Ireland; three had been deported and one had been removed to a third country. The authors also came across one case where a woman had been trafficked to the Republic of Ireland for the purpose of sexual exploitation within her own ethnic community. This problem had also been observed during research on the sex industry in London (Dickson 2004). In relation to that case, Ward and Wylie (2007) underlined that

...evidence has come forward in related criminal proceedings in Ireland. In 2003 several Chinese men were convicted in Dublin of a number of offences arising from a brawl outside a brothel which the court heard was for Chinese men and in which Chinese women worked (Ward and Wylie 2007, p.29).

As victims of trafficking generally pass through, and often reside in, main cities, local data for the Dublin area can also be considered indicative of an overall increase or decrease of the trafficking activity in the Republic of Ireland more generally:

Ruhama, an organisation which provides support services to women who have been trafficked, helped 44 victims of trafficking during 2007. Of these cases, 33 were new referrals for 2007. After Ruhama carried out assessments on the 33 new cases, one woman was deemed smuggled but at high risk of being trafficked and five other cases were trafficked into countries outside of Ireland but escaped here for help. The remaining 27 women were identified as trafficked into Ireland for the purposes of sexual exploitation (Irish Times, 30 June 2008).

Geraldine Rowley of Ruhama notes that whilst it is a small and local organisation, and therefore, “would have had contact with very few of the overall population of trafficked women”, she was “seeing a significant increase in the number of women being trafficked into this country for the purpose of sexual exploitation” (Irish Times, 30 June 2008). Through its work in Dublin, Ruhama was also able to collect information on victims’ country of origin, as well as on their age and location in Ireland:

They came from Nigeria, Cameroon, Kenya, Burundi, Malawi, Congo, Zimbabwe, Zambia, Thailand, Brazil, Romania, and Lithuania. Three of the trafficked women were minors. The remainder were aged between 20 and 30. More than half of the victims were trafficked into locations outside Dublin such as Kilkenny, Waterford, Sligo, Athlone, Dundalk, Drogheda, Monaghan and Donegal (Irish Times, 30 June 2008).

However, representatives of the organisation agreed that in the Republic of Ireland like anywhere else it was difficult to access victims of trafficking and their estimates will therefore be a general under representation of the situation:

...women who have been trafficked are strictly controlled, very afraid and live in fear - so they are unlikely to make or have contact with organisations such as Ruhama (Irish Times, 30 June 2008).

Data for missing unaccompanied minors also constitutes an indicator of the possible extent of trafficking. In March 2005, the Irish News reported that 58 children had gone missing from care in the Republic of Ireland in the previous 12 months. Children who went missing in the first three months of 2005 were originally from Somalia, Romania, Georgia, Nigeria and Moldova (Irish News 2005, quoted in Dudley 2006, p.26). In November 2006, children were also found to have disappeared from care:

The Health Service Executive confirmed in November that over 250 children had gone missing from care “and were being sexually exploited”... a Separated Children’s Officer [said that] on average, three separated children disappeared from care every month... there were indications that the vast majority of youngsters looking for refuge in Ireland had been trafficked (Dudley 2006, p.27, quoting a report from the Health Service Executive entitled Asylum Children Traded as Sex Slaves).

Also in 2006, the Cork Stop Sex Trafficking Campaign noted that:

...according to the Irish Refugee Council, over 300 unaccompanied children arriving in Ireland have gone missing and...many are feared to have fallen prey to traffickers.²⁷

In an indication of the continuation of this problem, in 2008 the press reported that:

New figures revealed three minors were among 44 women who broke free from the sex trade and looked for help in 2007 (Press Association 30 June 2008, quoting Geraldine Rowley from Ruhama).

The first case of trafficking to come before the Circuit Criminal Court in Dublin was that of a Nigerian lawyer, Olaitan Ilori, who was convicted in July 2007 (Irish Times, 18 and 19 July 2008).²⁸

In 2006, the Migrant Rights Centre Ireland (MRCI) published the results of a small-scale study into forced labour in the Republic of Ireland (MRCI 2006). The findings of the study showed that:

²⁷ <http://stopsextrafficking.ie/>.

²⁸ His conviction was under s.2(1) of the Illegal Immigrants (Trafficking) Act 2000, which created an offence of organising or knowingly facilitating “the entry into the State of a person whom he or she knows or has reasonable cause to believe to be an illegal immigrant or a person who intends to seek asylum”. The conviction related to 12 adults from Mauritius and there was no evidence as to whether forced labour might have been intended.

...physical abuse, confinement, coercion, deception and exploitation can and do occur to people trafficked for forced labour. However, it was also found that in many cases of trafficking, coercion is more subtle, involving late payment of wages, confiscation of papers, constant threat of not renewing work permits or threat of denunciation to the authorities followed by deportation.

The MRCI found that workers who were subject to exploitation in the Republic of Ireland came mainly from countries of high unemployment, and great poverty. While the motivation for migrating varied between people from different countries of origin, the desire to attain a higher standard of living, to support children and family members in home countries, and escaping human rights abuses were the most quoted reasons for which interviewees decided to migrate, only to find themselves working under the conditions of forced labour in another country.

Human trafficking in Northern Ireland

As in other jurisdictions, information available in Northern Ireland indicates that trafficking here encompasses the trafficking of women, children and men for the purpose of sexual exploitation and labour exploitation.²⁹ To date, as elsewhere, there is no clear data on the number of victims of trafficking in Northern Ireland. However, government agencies and organisations working with victims noticed signs of increased activity in trafficking. Our own findings would concur with this. On 28 January 2006, a Detective Inspector working in a Child Abuse and Rape Enquiry (CARE) Unit described the situation in Northern Ireland as follows:

Although a number of brothels have been closed in Derry over the past year, this problem is more specific to Belfast. The bulk of them are to be found in south Belfast where there might be ten to twelve operating at any one time... the PSNI is aware of 60-70 brothels in the Province, a small proportion of which is constantly shifting addresses... contrary to perceived ideas, some of these women are from professional backgrounds. They travel up from Dublin or fly over from the mainland to make a great deal of money over a short period of time. The horrible phenomenon of women packed into vans and lorries and imported to the UK to work as prostitutes has not so far been seen in Northern Ireland... human trafficking of this kind... will arrive as trafficking routes extend to include the Belfast airports.³⁰

It is worth bearing in mind that Northern Ireland was not included in Pentameter 1. In October 2007, when Pentameter 2 was launched, the Northern Ireland Office (NIO) Minister Paul Goggins as chair of the Organised Crime Task Force (OCTF) claimed that there was no clear evidence of human trafficking in Northern Ireland:

29 The following section considers data and information available prior to the current study.
30 At <http://www.qub.ac.uk/home/Alumni/AssociationsFileStore/Filetoupload,24570,en.pdf>

Whilst as yet there is no firm evidence that human trafficking is taking place in Northern Ireland we are adopting a proactive approach. Pentameter 2 provides us with an opportunity to work with our colleagues across the UK and gain a better understanding of the extent of the problem here.³¹

At the close of Pentameter 2, preliminary reports were that five victims had been rescued in Northern Ireland (four of them as victims of sexual exploitation and one of forced labour); six people were arrested for controlling prostitution and people smuggling; nine properties were searched and £5,500 was confiscated (Irish Times, 2 July 2008).³² Although the results of Pentameter 2 may have indicated that a number of women had been smuggled or trafficked into Northern Ireland, exact numbers have still not been established (NIWEP 2008, p.9) and the one trafficking conviction was subsequently overturned.

The press statement issued by the NIO on the eve of the UK's ratification of the Council of Europe Convention Against Trafficking stated that thus far, 11 victims of trafficking had been recovered in Northern Ireland by the PSNI: six from sexual exploitation, two from domestic servitude and three victims of forced labour.³³

Northern Ireland's geopolitical position means that victims may be moved back and forth across borders and jurisdictions governed by different legislative and policy frameworks. According to testimony at the Joint Committee on Human Rights:

Police sources have noted the ease with which the land border can be crossed within Ireland and also the increased use of Northern Ireland both as a route through the UK from the Republic and going in the other direction. We do not have the information to know the relative numbers on that. We do know that the border is used commonly every day for all sorts of activities from work to going to the dentist, so it is very, very easy to cross (evidence submitted by Dudley, Joint Committee on Human Rights 2006, p. 1).

A report published in 2006 by Women's Aid compiled information on the involvement of paramilitaries in trafficking in Northern Ireland, from both press surveys (Belfast Telegraph 2000; 2001; 2002; 2003; 2004) and interviews (Dudley 2006). Focusing more specifically on the involvement of paramilitaries in sexual exploitation of women and children, a Detective Inspector working at the time of the statement with a CARE Unit at the Criminal Justice Department of the PSNI was able to confirm that in south Belfast:

31 See the Northern Ireland Office, Media Centre, at <http://www.nio.gov.uk/human-trafficking-team-set-up-in-belfast/media-detail.htm?newsID=14715>

32 In relation to one Belfast raid in 2008, two persons were eventually convicted of controlling prostitution; both were also charged with trafficking, and in one case the charge was dropped while in the other, a conviction was overturned on appeal: 'Tax-payers' thousands spent on man cleared of trafficking', Irish News, 2 September 2009.

33 'Northern Ireland to play full role in European Agreement on Human Trafficking', NIO Press Release, 17 December 2008, at <http://www.nio.gov.uk/northern-ireland-to-play-full-role-in-european-agreement-on-human-trafficking/media-detail.htm?newsID=15619>. Note that the initial UK-wide figures reported from Pentameter 2 have since been greatly revised: see footnote 24.

The brothels, which have links to escort services, invariably feature minders. These individuals usually have criminal convictions, and many of them are connected to Loyalist paramilitary groups. The brothels provide a basis for selling drugs and operating protection rackets... These brothels go in for prostitution on a cleverly organised basis, and operate alongside the more 'casual', individual forms of prostitution... the brothel organisers are switched on to what is and is not legal... The new apartments built in south Belfast are a current choice of premises, obtained on a short term lease for payment in advance, and with only shadowy details of identity supplied for the rental agreement.³⁴

The role of paramilitaries in human trafficking is not known. A recent case in the Republic of Ireland may point to other areas of involvement by paramilitary organisations, particularly in relation to offering protection to brothels, including those which exploit women who have been trafficked. In that particular case, described in the press in December 2008, a man involved in human trafficking and controlling prostitution in the Republic of Ireland is said to have paid a significant amount of money to the Continuity IRA for the previous three years.³⁵ In return, the organisation allegedly offered protection from other pimps, as well as criminal gangs.

In 2006, Dudley conducted a brief overview of the main groups of concern in relation to human trafficking in Northern Ireland. These were:

- Adults who had been smuggled into the country and subjected to exploitative labour practices;
- Women and girls who had been trafficked or smuggled into the country and appeared to be subjected to exploitation, usually in prostitution;
- Unaccompanied minors from other countries; and
- Children and young people born in Northern Ireland, who are being systematically sexually exploited (Dudley 2006).

The report emphasised that there was cause for concern that trafficking was occurring in each of these groups, characterised by activities defined in the Palermo Protocols and in the Council of Europe Convention on Action against Trafficking in Human Beings (Dudley 2006). In relation to the country of origin, people trafficked into Northern Ireland mainly originated from the Baltic states, Eastern Central Europe and Central Asia, Bangladesh, Jamaica, Sri Lanka, Ukraine and several African countries including Cameroon, Nigeria, South Africa and Sudan (Dudley 2006, p.3). A solicitor interviewed by Dudley stated that:

About three years ago, I had two unaccompanied minors as clients, now it is more than doubled. Before 2003, all these were Chinese, by 2005, this group includes people from Somalia, Cameroon, Albania, and China among other places (Dudley 2006, p.31).

34 Talk given prior to the 2006 AGM of the Queen's Women Graduates Association, at <http://www.qub.ac.uk/home/Alumni/Associations/FileStore/Filetoupload,24570,en.pdf>

35 'Human trafficker funded CIRA to protect his prostitution ring', The Sunday Times (7 December 2008), at <http://www.timesonline.co.uk/tol/news/world/ireland/article5298861.ece>.

Talking specifically about exploited labour and debt bondage, another interviewee stated that:

Chinese were the main base here until recently [when the client base has become more diverse rather than diminished numbers of Chinese]. Years ago clients who had come via snakeheads [Triad people-smuggling organisations] were paying off debts to the gangs, sometimes thousands and thousands of pounds... that may still be the case but people now are vaguer [sic.] about their sources of funds, saying their money came from an uncle for example (Dudley 2006, p.34).

While a number of estimates exist internationally, regionally and nationally, reliable quantitative data relating to the number of people trafficked into and through various jurisdictions is significantly lacking. Trafficking is a hidden problem, and therefore difficult to measure in quantitative terms. Additionally, sources of data differ in accordance with the policies adopted to combat the various forms of exploitation, with more information being available regarding sexual exploitation than labour exploitation or child trafficking. While the latter two issues are of concern, particularly for national authorities involved in labour market regulation and child protection, this widening of focus has not as yet produced a model for data collection that would give a more accurate picture of the extent of trafficking for all forms of exploitation.

The next chapter presents the findings of the current research in relation to the nature and extent of trafficking in Northern Ireland. As with previous studies in this area the findings are mostly based on information from and interviews with those who work in the field and the baseline for assessing the extent of trafficking is very hard to estimate.

Chapter 4. The Nature and Extent of Trafficking in Northern Ireland

The following chapter presents the findings on the nature and extent of human trafficking in Northern Ireland. These are based on face-to-face interviews with representatives of law enforcement agencies, Social Services, trade unions, advice and support organisations and legal practitioners. The information gathered during the interviews shows that there is evidence of trafficking of women and children in Northern Ireland principally for the purposes of sexual exploitation and forced labour, including for domestic servitude. Some information was also gathered on the trafficking of men for labour exploitation, although there was significantly less data on this issue, and less knowledge amongst interviewees about this.

Before turning to the discussion of the findings of the research, it is important to stress that trafficking in human beings highlights social inequalities, both in the countries from which victims of trafficking come and in countries of destination. Trafficking in human beings is a violation of human rights that is perpetrated by individuals from a variety of social and ethnic backgrounds. In this sense, all social and ethnic groups have the potential to contain both the victims and perpetrators of trafficking.

General information

As in other jurisdictions, hard information about the cases of human trafficking in Northern Ireland is scarce. It was a view shared by many of the interviewees that generally “you don’t get to hear about it, until something happens”. Other reasons were also cited to explain the lack of knowledge, the most important reason being the fact the organisations involved at different levels in supporting victims do not ask questions about whether someone has been trafficked and in what circumstances. There are good reasons for this approach. The priority for service providers is to deal with the immediate needs of the victim and not to ask questions that could scare the victim away or make them distrust those who are trying to assist them. As one support worker stated:

We certainly come across people who have been smuggled in, but in terms of trafficking no-one necessarily says that they have been trafficked. The organisation does not ask questions unless we need information for a very specific purpose.

Information is often built up through the experience of providing services such as advice or other forms of support. The examples of people disclosing that they have been trafficked are rare. Explanations for such low rates of self disclosure may include a general fear of authorities; a lack of knowledge or trust that there will be safe alternatives to their present experience; fear of reprisals to family members in countries of origin, or a range of other issues. Experience in the Nordic-Baltic region suggests that instances of disclosure appear to increase when there are well publicised and safe alternatives for victims.³⁶

Further experience of working with women and girls who have experienced violence suggests that disclosure of sexual violence is the most difficult type of violence to discuss openly. This would also be true for women who have been trafficked for the purposes of sexual exploitation. It is therefore not surprising that those who support women in cases of suspected sexual violence acknowledge that they may never find out that a woman has been trafficked when they offer their services and support:

...it's only after we get to know them – and it takes a long time – that they may disclose any other circumstances that they may be under... It is very, very difficult to get that level of trust.

It's very difficult to tell the difference between somebody who is working as a prostitute though doesn't have a sense of herself being trafficked for that reason, and because it is a very difficult issue for women to talk about it's actually very difficult to get them to state clearly their origins or the history behind it. But we do have a very strong sense that this is quite active and we hear through various ways.

Although self-identification does not happen often, there appears to be knowledge within the support sector of the issues that are occurring within various communities. As one of the support workers stated:

Nobody reported that directly, I suspect a lot of people may not feel comfortable to report [to a particular organisation] But from rumours and so on within the community and people talking ... there was a sense that this is certainly going on within the community, that people are being trafficked over here, some for the purposes of working in restaurants, catering outlets, under ridiculous conditions, and also there were allegations that women are being brought over as well as trafficked and forced into prostitution.

Providers of services realise that their information is incomplete. Nevertheless, they do view trafficking as a significant, and growing, problem in Northern Ireland. A representative of a support and advice organisation said:

36 See for example: The Nordic-Baltic Project (2008) Working together: Trafficking of Women for Sexual Exploitation: Assistance and prevention (available at http://nordicbaltic-assistwomen.net/IMG/pdf/Working_Together_Nordic_Baltic_Network_publication-5.pdf)

...we pick up other information in bits and pieces and it's all bitty information that we get, but it is enough to get us really concerned about it and it is enough for us to firmly believe trafficking is happening, and it is happening in our local city and the surrounding area.

Due to the nature of trafficking it is difficult to establish the scale of the problem. This difficulty is further compounded given that co-ordinated action and the recording of suspected cases is still poor in Northern Ireland. A law enforcement officer noted that three types of trafficking are occurring in Northern Ireland:

I certainly think, if we were to put it in [some] order, I'd say at the moment in Northern Ireland forced labour is the biggest problem with trafficking, followed very closely by sexual exploitation, and third would be domestic servitude.

A representative of a support and advice organisation working in the Derry/Londonderry area estimated that since 2004 the incidence of human trafficking in Northern Ireland had increased. The number of people accessing services provided by the organisation and whom they suspected might have been trafficked into the country rose from single figures in previous years to 20-24 during 2008. Those estimates were based on suspicions only, as:

They will never tell you whether they have been trafficked because they are scared, they think they are in trouble.

It would therefore appear reasonable to assume that the number of cases involving the trafficking of human beings in Northern Ireland is increasing. Indeed, more cases are now coming to the fore, not only because there are police resources dedicated to investigating those particular cases but possibly also as a result of the growing awareness of the problem among service providers. One interviewee, a legal practitioner, said:

...the types of cases that we are getting... they are relatively new but they are popping out of nowhere and it is really difficult to assess whether they are trafficked victims or not but we suspect they are.

The research generally indicates that Northern Ireland is used both as a country of destination, and transit,³⁷ particularly in the case of sexual exploitation. It is very difficult to estimate how many people are here only temporarily and are then moved to the Republic of Ireland or elsewhere in the UK. This is particularly due to the fact that some victims are recovered at airports or ports, and it is not always recorded whether Northern Ireland was their final travel destination. From the interviews conducted it is clear that there is a movement of people across the border with the Republic of Ireland, both for labour and sexual exploitation.

³⁷ This assertion is supported by some recent media reports in the neighbouring jurisdictions suggesting that some of the victims of trafficking into sexual exploitation have travelled through Belfast before arriving in Dublin. See for example: 'Sex trafficking ring investigated', RTÉ News, 20 October 2008 (available at <http://www.rte.ie/news/2008/1020/sextraffick.html>, accessed 23 October 2008).

Some of the evidence is anecdotal in nature, but there is also a number of cases that were dealt with by support organisations and by the police, which would appear to indicate the reality of this cross-border aspect to trafficking. Co-operation in ongoing in this respect with the Garda National Immigration Bureau, but it is not possible to give precise figures for the number of people involved.

There are a number of routes that are used to bring people into Northern Ireland and some of them include stopovers in other countries in Europe and elsewhere. Interviews revealed that there is evidence to suggest that a number of people who have come to the attention of the authorities here have previously travelled through or temporarily stayed in other countries. Such evidence suggests that London airports would have been used as a hub, particularly in trafficking for sexual exploitation, and from there victims would have been brought over to the Republic of Ireland or to Northern Ireland.

There are indications that due to strengthened border control and security check at London airports, as well as targeted disruption operations by the UK Border Agency (UKBA) and the Metropolitan Police, other connections are currently being utilised. For example, several routes through Spanish, Portuguese and Italian airports are being used as stopover hubs in the trafficking of people from China and Africa. Amsterdam has also been mentioned as a hub for trafficking, particularly due to its many connections to airports in Africa (Dunlop 2008).

The following section discusses in greater detail the nationalities of people who have been or are suspected as having been trafficked into Northern Ireland. The range of nationalities and geographical locations of countries of origin is significant impacts on the provision of specialised services, in particular on the provision of culturally sensitive support and appropriate interpretation services. Referring to the nationalities of victims in Northern Ireland, or where concerns have been raised as to their status, a law enforcement officer pointed out the differences in various types of exploitation and stated that:

Sexual exploitation at the moment in Northern Ireland, the majority would appear to be Chinese... forced labour for one reason or another appears to be Eastern Europeans, and we've concerns about people being brought in for false ambitions and false hopes. Prostitution and sex exploitation, certainly Chinese, Asian origins, but also nearly every country, Canada, Brazil, Russia, Poland, Spain.

Another aspect of trafficking in Northern Ireland examined during the research was the alleged involvement of paramilitary organisations in this issue. It has been claimed in the past that some connections exist between sex exploitation, the existence of brothels and the activities of paramilitaries in certain areas of Northern Ireland.³⁸ A law enforcement officer interviewed for this study told the researchers:

I have no experience of paramilitary involvement in human trafficking. Indications... at the moment are that the majority is based outside of the country for whatever reason. Certainly there are contacts, facilitators and traffickers inside the country but it seems to be organised by rings outside the country for financial gain more than paramilitary ends.

If there seems to be little evidence of direct involvement of paramilitaries in the transport of people across borders or internally, there are, however, indications of possible involvement in the facilitation of prostitution by providing protection to brothels in exchange for money. Interviews also revealed some concerns that the paramilitaries may play a larger role in supporting sexual exploitation than previously imagined. Considering the conflicting nature of the evidence, this aspect of trafficking in Northern Ireland remains speculative rather than definitive.

Trafficking for sexual exploitation

The primary focus of the sex industry in Northern Ireland is brothel-based with brothels organised in dwelling houses and apartments. The occurrence of on-street prostitution is on a smaller scale. The majority of brothels are in Belfast but some also exist in Craigavon, Derry/Londonderry, Fermanagh, and Newry.

A number of interviewees indicated that in the past, brothels tended to be constantly on the move and this limited the possibilities of investigating cases of trafficking. Interviewees also tended to indicate that this situation has now changed due to the change of policy in relation to police actions against brothels. The current policy is to check brothels for criminal activities and trafficking but brothels are not closed down following police checks. Information gathered during the course of the research confirmed that the decision to close is taken by the police at District level. An operational rather than strategic approach to this issue means that there is no policy encompassing the whole of Northern Ireland. In some places, including Belfast, the locations in which the brothels operate tend to change less frequently.

In Derry/Londonderry, the situation appears to be slightly different. The local brothels were all short-lived and there appears to be a distinct division between on-street and off-street prostitution. An interviewee from a support organisation working in the area suggested that the former is dominated by local women and the latter by women from other countries. The research indicated that in the Derry/Londonderry area, women exploited in prostitution included Estonians, Latvians, Lithuanians, Slovaks and Slovenians. A representative of an organisation working in the city also noted that there were:

...no Asian women... which is strange because the majority of trafficked people here would come from China or India. There were a number of women trafficked from China into restaurants, moved from one to another, but whether there was a sexual element to it all, I don't know.

In addition to brothels that have prostitutes and customers from all ethnicities, there are also brothels that appear to have both prostitutes and customers from particular ethnic communities. This was noted in some Chinese communities in Northern Ireland, where services are only offered to members of that particular community and access from outside of the particular ethnic community is extremely limited. These establishments do not stay in the same place for long and, unlike other brothels, tend to be on the move more often. The nature of prostitution organised in such a way makes it very difficult for the police to investigate. Commenting on the difficulties in establishing the scale of the problem, another interviewee added:

We have concerns about that because it's maybe... not as open and we don't know what's going on and we don't know where the girls are coming from, whether they have been involved in [this] around different UK cities and we are concerned... that they may be trafficked.

Despite the difficulties investigating such practices, it was reported in May 2009 that the PSNI had rescued six women as part of Operation Sleek from brothels in Belfast and Derry/Londonderry, with the victims primarily coming from the Chinese community.³⁹

An investigation of the prostitution industry also faces the wall of silence caused by a perceived need to protect the community. Referring to allegations concerning the existence of brothels within the Chinese community in Belfast, a representative of a support and advice organisation stated:

...there are a lot of rumours and allegations within the community but there is also a wall of silence, if you tried to get more information, they won't speak to you.

Some of the women working in such brothels may have been brought in from Great Britain and the Republic of Ireland for short-term stays in Belfast (4-5 weeks) and are later transported to other locations. Moving brothels around is a means of exerting control over the women working in the establishments and prevents contacts or networks with the outside world from being formed. Moving brothels around also means that victims have fewer opportunities to look for help in a certain location. The fact that the locations change on a regular basis also means that any intelligence received about them may be out of date by the time action is taken by law enforcement agencies.

This movement of brothels between different areas utilises transport which is organised very quickly if anyone raises any concerns. A representative of a support and advice organisation working in the border region with the Republic of Ireland stated that they had concerns about:

³⁹ Operation Sleek involved co-ordinated raids by the PSNI and British police. See the BBC news story 'Human Trafficking Gang Targeted', at http://news.bbc.co.uk/1/hi/northern_ireland/8072576.stm.

One particular group of what appeared like a group of very young women, didn't seem to be any men at all, collection of [camper vans]. When [we] tried to get any more information about it, it was closed off very fast. I was told that it was not safe to do any more [about it].

In relation to sexual exploitation, one interviewee from a support and advice organisation told us that their organisation had in the past assisted women who had disclosed the fact that they have been trafficked:

The ones who have told us, over five years you're talking about six or seven maximum. It was all sexual exploitation. Three or four of them were pregnant, probably got pregnant on route. Two or three got off the boat here thinking they were in America and were quite shocked they were in Belfast.

The use of student visas for the purposes of getting a person into the country featured in a number of reported cases in relation to sexual exploitation. In one case, a student from North Africa moved to Northern Ireland when she was promised that she would be sent to a university here. Upon arrival in Northern Ireland, she was forced to work in a brothel run by her relative in Belfast.

Trafficking for forced labour

Trafficking for the purposes of forced labour has not attracted the same level of attention in Northern Ireland as trafficking for sexual exploitation. There are certain difficulties in relation to the identification of those cases, such as the fact that some victims may not perceive themselves as having been trafficked, rather as having entered into a contract that they should adhere to. Indeed, an individual who has been trafficked may see themselves as having no option but to do what is demanded of them (Craig et al. 2007, p.17). In some cases this may be as a result of the individual not being aware of the illegality of the act of trafficking and they may also be unaware of their rights in their new country of residence.⁴⁰ As a result of a number of factors, the number of cases that have been investigated has been minimal. On a UK-wide scale, only four prosecutions relating to cases of forced labour concluded between 2004 (when legal measures were introduced) and November 2008.⁴¹

Law enforcement agencies have indicated that police plan to look more closely at this issue in the near future. The assessment by the law enforcement officer was that forced labour is a very significant problem in Northern Ireland despite the fact that more cases do not come to the fore through activities of inspection bodies established to monitor the labour market.

40 For further discussion of this complex issue see page 67 of this report.

41 Hansard, HC Report 3 February 2009, col. 157WH onwards.

Research material notes that the exploitation of labour is sector-based; different sectors of the economy feature in cases of abuse and the maltreatment of workers. One particular case highlighted by the research was that of a woman from Eastern Europe who was brought to Northern Ireland on the guarantee of a well paid job. She was then placed in a camper van with five men and hired to work on a farm. According to one support worker, the working and accommodation conditions on the farm were “horrendous”. After the woman was subsequently sexually assaulted by one of the men she was forced to live with, she came to the attention of a support organisation. Suggesting that many individuals in such situations continue working in harsh conditions out of fear of losing their jobs, a representative of another support organisation stated:

Nobody complains, the majority of people see it as their personal debt. It's hard to convince people that, yeah, they did agree, but they were supposed to get so and so... we have some information but [people] don't want to be identified.

For a number of years, the exploitation of undocumented workers in particular was widespread in certain sectors. A representative of an advice and support organisation stated:

A number of people in the [Chinese] community are undocumented and it was evident to us that there were a lot of Chinese business people that were taking advantage of this. We would have heard of situations where people were... paying huge amounts of money to be brought into the country and were as a result in situations where they were paying back, basically [in] debt bondage.

It should be noted however that even within this relatively limited study both the victims and perpetrators of trafficking and forced labour come from a wide variety of ethnic groups in Northern Ireland, and such practices as mentioned above are not the preserve of any one community or ethnic group alone. Exploitation in restaurants and catering businesses was mentioned on a number of occasions. A representative of a support organisation working in the Derry/Londonderry area stated:

There are places in border areas that would be entirely staffed by people who have been trafficked. If they do get away, their documents are kept by the employer and there are indications that their families are threatened in the country of origin.

A representative of a support and advice organisation in Belfast added:

There would have been whole restaurants that were employing undocumented people; local people were complaining that they couldn't get jobs within the community because... employers are looking for undocumented staff. No employer was ever prosecuted or investigated.

This situation has changed significantly since the UKBA introduced new enforcement measures at the beginning of 2008. A number of interviewees suggested that at least some of the people arrested in raids on cannabis houses in Northern Ireland in June 2008 may have been “pushed out” of the catering sector and undertook work in cannabis houses as an alternative. Interviews for this research revealed that some of the people currently in custody or on bail awaiting trials for the growing of cannabis had no idea that they were in Northern Ireland at the time of the arrest, with at least one of them absolutely convinced that they were somewhere close to London.

This opens up the possibility that victims of trafficking may face prosecution. It is our understanding that this aspect of the case is being investigated by the relevant authorities, and where necessary, protection will be offered to those who potentially may be victims of human trafficking. A law enforcement officer noted:

We believe they are debt bonded and are being told if you come and work for us for two years or 12 months, it will pay your debt, which of course they will never pay off, and then you will be free to go. So yes, if you look at the definition of trafficking, because they are debt bonded, and because we know they will never pay the debt off, yes, they are trafficked.

A major concern is around the possible involvement of employment agencies in cases of labour exploitation, particularly, although by no means exclusively, in relation to recruitment for work in care homes. The withholding of passports and documentation was a recurring theme, which featured in the interviews, as did issues around the extension of work permits and dealing with other immigration-related formalities.⁴² One trade union representative stated:

...when your work permit comes to an end, and you want another one, you hand over your passport because you want the permit. There have been occasions when passports were held on to, and permits not renewed, but after interventions papers were sorted.

In those cases where intervention by an external organisation was possible the outcome tended to be positive. However, such practice puts a number of workers in the very vulnerable position of having an undocumented status for a period of time at least. This potentially opens the way to exploitation, and the use of threats of denunciation to immigration authorities in case of any complaints. A representative of a trade union contended:

When people are living and working in the care home, and have no passport and no work permit the situation is even worse, and people keep their mouth shut because they don't want to be thrown out on the street.

⁴² This may relate to withholding of documents by employers, or by employment agencies: the extent of the research did not provide clear evidence as to the relative incidence.

The role of employment agencies was mentioned on numerous occasions and in particular in relation to the charging of fees. This also puts workers in a situation where they are vulnerable to exploitation. As one interviewee put it:

People [are] offered a job, they are told that they are going to get so much a week, that they are [going to have] housing and they are offered the world, and they have to pay some sort of a fee to the agency to arrange them coming, and then they do pay a fee that's supposed to be deducted from their wages weekly... regularly once they are in placement... and then they get here and it's completely different from what it was supposed to be.

Exploitation in Chinese traditional medicine centres was highlighted during the research. This issue appears to the authors to be the most clear-cut case of trafficking for exploited labour in Northern Ireland. It appears that both doctors and receptionists in the centres are brought into the UK legally, on work permits in the case of the former, or on student visas in the case of the latter. Staff are contracted to work a specific number of hours for a specific pay, and their formal contract of employment reflects those terms and conditions. In reality, however, doctors in particular are required to work excessive hours; one of our sources revealed to us that this can be as much as all year with only one or two days off around Christmas. The pay is also significantly lower than that which was originally promised.

What differentiates this case from other cases of exploitation in the labour market is the apparent control that the employers exert over their employees, including preventing them from making any ties with the local community. The information collected suggests that as soon as there are any indications of an employee forging any links with the outside world, he or she is transferred – often with the ‘help’ of a third party – to another location, either in Northern Ireland or in the Republic of Ireland. As the work permits only cover Northern Ireland, transfer to the Republic of Ireland means that they are working there illegally and are very vulnerable to threats and exploitation from their employers. A representative of a support and advice organisation stated that threats against the families of workers are a distinct possibility in those cases:

[the worker] was not willing to complain because when the work permit was sought for him that particular boss “did a little investigation on his background in China”.

The movement of workers in this way is not isolated and certainly not limited to one sector; it is just that less detail was made available in relation to the situation in other sectors. In general, as one interviewee summarised:

There is a lot of movement between the South and the North, we have come across people who have had permits for the South, but were working in the North which puts them in a very vulnerable situation because if they are caught they're not really allowed to be in the country. It's clearly [done] to keep people from making complaints.

On numerous occasions during the course of the research it was mentioned that workers who come to the attention of support organisations in those situations have no idea that they have even crossed the border and that they may not have the legal right to work or reside on either side of the border. The movement of people between jurisdictions for the purpose of work is particularly common in agriculture and includes workers from countries that have recently joined the European Union.

Two cases in relation to forced labour concerned people in domestic servitude, hired to look after children and family homes for families from outside of Northern Ireland. These included an Indian national as well as one reported case of a person from North Africa. One of the cases involved the person being essentially locked up in the house for three years, with no contact with the outside world. Neither victim received pay for the work that had been done and had poor working conditions, such as sleeping on the floor in the houses that they worked in. One of these individuals has been abandoned in Northern Ireland after the family decided to move elsewhere. In both cases the victims managed to make contact with the authorities and their situation has been investigated. In both cases the investigation and subsequent actions by the relevant authorities were obstructed because the perpetrators had left Northern Ireland before any action could be taken against them.

Perpetrators leaving the jurisdiction before the victim is in contact with the relevant authorities and before any criminal proceedings that would allow for the arrest and detention if necessary, highlight a further problem in this area. The unwillingness of perpetrators' own countries to extradite them to the UK is also significant, and cultural differences play a role in how this offence is viewed by the authorities in the country of origin. As one legal practitioner stated:

[The police] made enquiries with the embassy which more or less made it clear that they have no chance of getting [the person] extradited for something like this because culturally they don't see anything wrong with what [the perpetrator] has done.

Similar conditions are also endured by some women from Thailand who have married local men in Northern Ireland, a scenario which may indicate potential overlap with trafficking. In two cases women were prevented from making links with the broader community in their area, with one of them subjected to sexual violence, whilst the other's husband had withheld her passport for two years.

While practices of forced labour are spread in a number of sectors of the economy, the cultural element in some minority ethnic communities is quite significant in relation to effective prevention, as well as investigation of suspected cases. Sometimes support, or at least lack of condemnation, for such practices is expressed within the community. This makes it significantly harder for victims to self-identify as trafficked persons, or even exploited persons, and in effect makes an effective investigation difficult. The issues around shame and being shunned by the community through raising the difficulties with any authorities are major hurdles in self-identification. However, businesses that use forced labour practices are found within all communities in Northern Ireland.

Trafficking in children

Services for trafficked children require special attention, as they need to be age-specific and consider all the effects that trafficking, forced labour and sexual exploitation have on the individual child's well-being.

In numerous cases unaccompanied minors, or persons who present themselves as minors, appear to have travelled to Northern Ireland from China and Africa, although one law enforcement officer's assessment was that "the majority of minors are Chinese, I would say 90% are of Chinese origin, the other 10% would be other Asian, Vietnamese." Information collected from law enforcement agencies indicated that Belfast airports might have been chosen as a displacement destination, after operations at Gatwick and Heathrow airports made it more difficult for traffickers to use them as a port of entry. From information produced, minors travel mainly through Palma in Majorca, and from some other locations in Spain.

Those presenting themselves as minors to the immigration authorities at the airport cannot be placed in police custody because of their age, neither can they be placed in immigration removal centres/immigration detention until they have been properly interviewed by the UKBA. The information gathered through interviews indicates that 16 cases of people claiming to be 17 years of age have been referred to Social Services by UKBA since April 2008. Fifteen of them disappeared from accommodation provided on an emergency basis by Social Services teams in Belfast within hours of their arrival. Another child went missing after a few days. As one representative of a support and advice organisation stated:

They are not minded while they are there. There is a loophole in the system which is used for this, the traffickers must know that the kids are going to be placed in a B&B from which they will be easily picked up.

The research indicates that the transport of minors is very well organised and is conducted with the help of traffickers or smugglers who live locally in Northern Ireland.⁴³ The minors enter Northern Ireland with information as to whom to contact, and with some of them in possession of local SIM cards (for mobile phones) supplied to them prior to their arrival in Northern Ireland and stitched into their clothing. In the opinion of an interviewee working in one support and advice organisation:

It is very well organised, they have phones and local SIM cards to get the pick up organised. It used to be one [child] a month, but now not that often.

There is very little known in relation to the specific reasons for which children or people who present themselves as minors to the immigration authorities in Northern Ireland are trafficked to this jurisdiction. Opinions appear to vary between various law enforcement agencies and voluntary sector organisations in this respect. Some evidence was collected during the research to suggest that the view of the authorities in the Republic of Ireland is that 70% of minors presenting there come to join their families who already reside in the country. The situation has been assessed differently in Northern Ireland by a law enforcement officer:

We would disagree with that because the whole way they come in, the whole way they are dressed, the whole demeanour and the subsequent investigations when they abscond from social services care – they are going in for sexual exploitation.

This belief was shared by a representative of social services, who also stated that there was little doubt that those children were brought to Northern Ireland for the purpose of sexual exploitation.

The current research indicates that until very recently the support provided to unaccompanied minors entering Northern Ireland in those circumstances was minimal. The interview by the UKBA was viewed by legal practitioners and support and advice organisations as not providing an opportunity to disclose information about trafficking or abuse and, until very recently, it appears that very little information was collected about the minors before they were directed to Social Services. As they are usually presenting as being 17 years of age, the possibilities of provision of safe accommodation by social services are limited and, while other services are offered, a gap in legislation and practical provision has been identified by social care professionals, legal practitioners and advice and support organisations.

⁴³ Of the two individuals in court as of June 2009 charged with trafficking related offences in relation to Operation Sleek and the recovery of six women from brothels in Belfast and Derry/Londonderry, one of the defendants was a former police officer, originally from Northern Ireland. See the Belfast Telegraph news story 'Ex-cop due in court on trafficking charges after raid on brothel', 30 May 2009. Available at <http://www.belfasttelegraph.co.uk/news/local-national/excop-due-in-court-on-trafficking-charges-after-raid-on-brothel-14320341.html>.

In the opinion of a law enforcement interviewee, the questioning by UKBA may, in some circumstances, all but remove the possibility of offering appropriate support by instigating mistrust in the authorities, and at worse may contribute to the decision by the young person to abscond:

...Border Agency are carrying out the initial interview but... that's not good enough either because you are saying "what are you doing here, why have you got no documents, why this, why that", and of course they are going to clam up and not co-operate with you... they think they are going to be removed, deported, so of course they are going to make contact with the person that's facilitating them coming over and who is the trafficker.

Until very recently photographs have not been taken of the minors, which seriously hindered any investigation of their disappearance as a case of missing persons. A representative of a support and advice organisation stated:

Not one was found from the ones that were missing, two girls went missing and we don't know anything about them. In the first couple of cases we didn't have anything, you couldn't put out a missing persons poster.

The problem with the identification of unaccompanied minors, or those persons whose age is being disputed, has been recognised as an issue, particularly when there is a lack of sufficient information to instigate a missing persons appeal. Certain procedures have now been put in place to make sure that unaccompanied minors are photographed before being assisted by social services. While this may help in relation to a police investigation for missing children, it clearly does not resolve the issue of placing them in circumstances where they can disappear in the first place. Some plans, such as the possible introduction of compulsory fingerprinting and collection of DNA samples by the UKBA, have not met with universal approval, with opposition from other law enforcement and human rights bodies and non-governmental organisations which view such practices as intrusive and potentially threatening. As one law enforcement officer put it:

I can see why they are asking for this... if the person goes missing it gives an indicator, it helps the police investigation, but if I was an unaccompanied minor, I was 17 and was stopped at Belfast airport, and was given a screening interview and then told "give us a mouth swab, give us your fingerprints, and a photo" I would think "that's it, I'm gonna try and escape as soon as I can".

Such issues should be considered in the preparation of the appropriate protocols and we recommend that they include the provision of appropriate safe accommodation for unaccompanied minors, where the possibility of their disappearance will be minimised by the provision of specialised support and assistance. In the opinion of a law enforcement officer:

We need some other support networks in place to say “we are here to help you, we believe that you are being trafficked but you don’t realise that” and explain the whole situation, of course in their own language, and put them in a situation with support.

The situation in relation to unaccompanied minors, or those whose age is disputed, is changing and actions are being taken at the moment to provide a more co-ordinated, multi-agency approach involving the police, UKBA, social services, and voluntary organisations. Information about services available in Northern Ireland is now provided to unaccompanied minors (or those who claim to be minors) who present themselves at airports at a point of entry. The recent agreement of inter-agency protocols should help towards the resolution of this situation.

The research also revealed cases of trafficking in children for the purposes of labour exploitation. In some cases the reason for the child being trafficked was not known as the child had subsequently been abandoned by persons claiming to be their relatives upon arrival into Northern Ireland. In at least one case the child had been trafficked to a variety of countries and had been working in other jurisdictions before being discovered in Northern Ireland. While we have not come across significant information regarding internal trafficking of children and young people, there are concerns that certain cases identified appear to be cases of grooming for sexual exploitation. These cases concern both children who are in care and those who recently arrived with their parents from Eastern European countries.

There are some indications that children are being picked up from children’s homes in certain areas in Northern Ireland, to be transported to other locations in Northern Ireland and possibly Scotland. One interviewee also mentioned children being brought in from Scotland to hotels in Belfast for the purposes of sexual exploitation. These cases are currently being investigated by the police.

One of the representatives of an organisation working with children in Northern Ireland was concerned that there is not enough information about the problem of child trafficking:

It’s that thing, unless you lift a stone and look under it, you’re not going to find it and there is reluctance to look for child sexual exploitation, will it be due to lack of resources or whatever, they’re not going to do it.

The research also highlighted growing concerns around the trafficking of children from Romania and Bulgaria for the purposes of exploitation by forcing them to take part in criminal activities, or to be used in fraudulent claims of social security benefits. While no cases have been registered as yet in Northern Ireland, some interviewees raised the possibility of this practice transferring to this jurisdiction from both Great Britain and the Republic of Ireland. Queries have been raised in the House of Lords, with the issue also receiving considerable attention during the House of Commons Home Affairs Committee's inquiry into human trafficking in early 2008.

Information disclosed during the course of current research suggests that one child can 'earn' up to £40,000 per year in benefits paid out to a family who 'buys' the child for the purpose of benefit fraud. In a letter to the House of Commons Home Affairs Committee in October 2008, Europol director Max-Peter Ratzel stated that 200 Roma children have been trafficked into the UK for the purpose of exploitation in street crime, as well as for exploitation in benefit fraud.⁴⁴ He claimed that many of the 200 children, who were on average eight years old, had been trafficked into the UK with the consent of their parents who charge a 'hiring fee' for the children. This issue has also been raised by ECPAT in its submission to the Home Affairs Committee's inquiry in February 2008.⁴⁵

This study indicates that trafficking in Northern Ireland appears to be following patterns which are recognised in other jurisdictions and covers the various forms of trafficking for the purposes of sexual exploitation and labour exploitation, including domestic servitude.

One avenue of combating trafficking in human beings is that of law enforcement and policy initiatives. The next chapter outlines the legal frameworks available for combating trafficking and discusses some of the initiatives that have been or are being undertaken on a variety of levels to address this issue.

44 'Fagin's army of Romanian children earns gang millions in UK', The Times, 9 November 2008.

45 ECPAT International is a network of organisations working to 'End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes'.

Chapter 5. Legal Frameworks for Combating Trafficking

The following chapter briefly discusses the legal frameworks and some of the practical initiatives undertaken to combat human trafficking at international, regional and national levels. While the scope of this study does not allow for a detailed analysis of all relevant instruments, the section outlines the main legal provisions and discusses some of the initiatives that may have a bearing on the investigations of cases, as well as the provision of support and assistance to victims. This chapter also closely links with Chapter 6 in which we discuss in more detail policy initiatives and models of good practice, the analysis of which can assist debate on investigation and the provision of services in Northern Ireland.

United Nations instruments

The UN Convention against Transnational Organised Crime (the Palermo Convention) was adopted by UN General Assembly Resolution 55/25 on 15 November 2000 and entered into force on 29 September 2003. The Palermo Convention is the main international instrument in the fight against transnational organised crime. As explained by the United Nations Office on Drugs and Crime:

States that ratify this instrument commit themselves to taking a series of measures against transnational organised crime, including the creation of domestic criminal offences (participation in an organised criminal group, money laundering, corruption and obstruction of justice); the adoption of new and sweeping frameworks for extradition, mutual legal assistance and law enforcement co-operation; and the promotion of training and technical assistance for building or upgrading the necessary capacity of national authorities (UNODC n.d.).

As noted in Chapter 2, the Convention is supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons (the Palermo Trafficking Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air (the Palermo Smuggling Protocol). To become parties to any of the Protocols, countries have to first become parties of the Convention.

As discussed in Chapter 1, the Palermo Trafficking Protocol, and especially Article 3,⁴⁶ is the key text of reference in regard to trafficking:

The Palermo Protocol currently provides the international standard for defining trafficking, determining the measures states should take to tackle trafficking as a crime and offers some suggestions as to the protections and assistance states should consider offering to victims of the crime (Ward and Wylie 2007, p.16).

However, the Palermo Trafficking Protocol has been criticised for several reasons. In the context of organised crime, the Protocol places emphasis on the need for states to prevent and punish crime rather than on their duty to protect victims of trafficking. Ward and Wylie (2007) reported that:

The Protocol has been criticised for being primarily driven by law enforcement considerations (Jordan 2002) and for failing to understand the human rights of the women-victims (Coontz and Griebel 2004).

Other legal instruments identified in Dudley (2006) to be relevant to the issue of trafficking are:

- UN Slavery Convention, 1927
- ILO Forced Labour Convention, 1930
- UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others, 1949
- Protocol amending the Slavery Convention, 1953
- Supplementary Convention on the Abolition of Slavery, the Slave Trade and the Institutions and Practices Similar to Slavery, 1956
- Abolition of Forced Labour Convention, 1957
- Convention on the Elimination of all forms of Discrimination Against Women, 1979 and
- UN Convention on the Rights of the Child, 1989.

These instruments are vitally important, in particular in relation to the protection of the human rights of victims of trafficking. As the former UN Special Rapporteur on trafficking in persons, Sigma Huda, put it in one of her reports to the UN Secretary General:

Trafficking represents the denial of virtually all human rights: the right to liberty and integrity and security of the person; the right to freedom from torture and other cruel, inhumane or degrading treatment; the right to freedom of movement; the right to home and family; the right to the highest attainable standard of health; the right to education.⁴⁷

The UN Special Rapporteur on trafficking in persons, especially women and children, was first appointed in October 2004, pursuant to a decision by the UN Commission on Human Rights.⁴⁸ The central role of the Rapporteur's mandate is to focus on human rights and the protection of the rights of victims of human trafficking. In fulfilling the mandate, the Rapporteur refers to the definition of trafficking contained in the Palermo Trafficking Protocol. Her work is led by international human rights standards contained in the instruments listed above.

⁴⁷ Economic and Social Council, Integration of the Human Rights of Women and the Gender Perspective. Report of the Special Rapporteur on trafficking in persons, especially women and children. E/CN.4/2005/71.

⁴⁸ Commission decision 2004/110; mandate renewed by Human Rights Council resolution 8/12 of 18 June 2008. The first appointee, Sigma Huda, was succeeded by Joy Ngozi Ezeilo when the mandate was renewed for three years by the Human Rights Council in 2008.

In relation to soft-law standards contained in UN instruments, the main text of interest to the current study is a document containing the Recommended Principles and Guidelines on Human Rights and Human Trafficking.⁴⁹ Developed by the Office of the High Commissioner for Human Rights, the document contains a number of principles, the most important of which is the primacy of human rights of trafficked persons that are to be at the centre of all efforts to prevent and combat trafficking. The document also contains detailed guidelines in relation to a number of aspects of trafficking, including:

- a. Promotion and protection of human rights
- b. Identification of trafficked persons and traffickers
- c. Research, analysis, evaluation and dissemination of information regarding trafficking
- d. Ensuring an adequate legal framework
- e. Ensuring an adequate law enforcement response
- f. Protection and support for trafficked persons
- g. Preventing trafficking
- h. Special measures for the protection and support of child victims of trafficking
- i. Access to remedies and
- j. Co-operation and co-ordination between states and regions.

European Union

The *EU Council Framework Decision on Combating Trafficking in Human Beings of 19 July 2002*⁵⁰ obliges all EU Member States to take necessary measures to punish all forms of trafficking in line with standards set by the Palermo Trafficking Protocol. It stresses the need to develop common legal and judicial approaches throughout the EU. The Framework Decision puts an obligation on the Member States to punish any form of recruitment, transportation, transfer or harbouring of persons who had been deprived of his or her fundamental rights. In accordance with the Framework Decision, all criminal conduct that abuses the physical or mental vulnerability of a person is punishable. The Framework Decision also obliges states to punish instigators of trafficking, as well as accomplices to it and those who attempt to commit the crime of trafficking in human beings.

The EU Council Directive on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities (of 29 April 2004) guarantees victims of trafficking a period of rest and reflection to be followed by at least six months' renewable residency permit. Under the Directive, during the reflection period, member states are to provide trafficked people with subsistence, access to emergency medical treatment and the state is also required to attend to the special needs of most vulnerable people (ILPA 2008).

49 Economic and Social Council, E/2002/68/Add.1.

50 EU Council Framework Decision 2002/629/JHA.

This is generally viewed as an important step towards the better protection of victims of trafficking, although some critiques of the decision have emphasised that an implicit condition of co-operation with the police was required for the temporary residence permit to be granted (Ward and Wylie 2007, p.20). The Directive provides that people who have been trafficked and who were granted a residence permit should be allowed to work and to access training and education in the country where they are staying. According to the ILPA:

The residence permit envisaged falls somewhere between the reflection periods and residence permits for which provision is made in the Council of Europe Convention (ILPA 2008, p.6).

The Directive was to be incorporated into national law and implemented by member states before 6 August 2006. The UK opted out of the Directive. On a practical level, the initiatives taken by the European Union in relation to trafficking tend to concentrate on strengthening law enforcement across Member-States and co-operation between states. EU funded programmes included STOP I, STOP II, Daphne and AGIS, all designed to enhance police and judicial co-operation on trafficking in Europe.

The European Commission's unit - Fight Against Terrorism, Trafficking and Exploitation of Human Beings and Law Enforcement Co-operation (under Freedom, Security and Justice section) aims to contribute to the development of the Commission's policy (legislative proposals, communications, Commission working documents); represents the Commission in Council Working Groups and the European Parliament, as well as at Europol, the Task Force of EU Police Chiefs, the European Police College, Interpol and the Council of Europe; co-ordinates the Commission's expert group on trafficking in human beings; and participates in evaluations concerning Member States' implementation of policy and legal obligations.⁵¹ The European G6 Initiative against human trafficking, which involves a limited number of states (the UK, Poland, Italy, the Netherlands, Spain, and the Republic of Ireland), was launched in Brussels in October 2007. An international meeting was held in Dublin in January 2008, during which awareness raising campaigns were launched.

Organisation for Security and Co-operation in Europe

The Organisation for Security and Co-operation in Europe (OSCE) Action Plan to Combat Trafficking in Human Beings was adopted in December 2003 by a Decision of the Permanent Council, and:

...calls on participating States to take initiatives to prevent trafficking, to prosecute traffickers, and to protect trafficked persons with the assistance of OSCE institutions and field operations.

The *Action Plan* constitutes part of the international soft law on trafficking. A special representative was appointed by the OSCE in 2004, to assist participating States in the implementation of their commitments and the Action Plan.⁵² Additionally, the OSCE's Office for Democratic Institutions and Human Rights (ODIHR):

...assists participating States in protecting trafficked persons and preventing trafficking in a threefold strategy that aims to:

- *support the establishment of multi-agency anti-trafficking structures (National Referral Mechanisms) that develop human-rights-based policy and practice in anti-trafficking;*
- *improve the identification and assistance of trafficked persons, including victims of labour exploitation and Roma victims; and*
- *strengthen access to remedies and rights by raising awareness of rights amongst trafficked persons, vulnerable groups and civil society.*

The OSCE recommended that the following actions be taken to combat trafficking in its Member States:

- ***National Referral Mechanisms:*** *The development of multi-agency anti-trafficking structures ('National Referral Mechanisms') can provide an effective way of ensuring that the rights of trafficked persons remain central to anti-trafficking policy and practice... National Referral Mechanisms can also counter the development of overly 'repressive' strategies, focused on combating crime to the exclusion of respecting the rights of trafficked persons. These approaches risk alienating trafficked persons and may undermine the prosecution of the perpetrators of trafficking. The promotion of close working relationships with civil society is also good practice in democratic institution building and the development of national referral mechanisms on anti-trafficking may pave the way for closer collaboration between civil society and authorities on other issues.*
- ***Identifying Trafficked Persons:*** *Trafficked persons still elude identification; instead, they are often deported as 'illegal' migrants without access to protection, assistance, justice, or compensation in the countries in which they are exploited. Persons trafficked for labour exploitation, alongside other groups such as Roma, are often not integrated into anti-trafficking initiatives. Current identification and assistance strategies need to be examined and improved.*

- **Prosecuting Traffickers and Protecting Trafficked Persons:** *Criminal investigations and the prosecution of perpetrators are rarely successful without statements from trafficked persons. Although most OSCE participating States have adopted anti-trafficking legislation in keeping with their commitments under the Palermo Protocol, many trafficked persons do not seek justice for violations of their human rights. In many states, they do not benefit from legal representation or witness protection and can be detained and returned to countries where their safety is jeopardised. Many trafficked persons are themselves prosecuted for irregular entry into other countries, possession of fraudulent documents, conducting illegal activities, or working without authority. All these factors contribute to undermining action to encourage the claiming and implementation of trafficked persons' rights, and they need to be tackled.*⁵³

In a Joint Declaration on Co-operation, the Council of Europe and the OSCE identified the fight against trafficking in human beings as one of the priority areas for strengthened co-operation. Furthermore,

*The Council of Europe and the OSCE are currently preparing a joint publication (to be completed end 2008/beginning 2009) on action against trafficking in human beings incorporating the most important Council of Europe legal and political instruments and relevant Ministerial Decisions of the OSCE (Council of Europe, Ministers' Deputies 2008).*⁵⁴

Council of Europe

The *Council of Europe Convention on Action against Trafficking in Human Beings* (Council of Europe Convention) was adopted on 3 May 2005 and entered into force on 1 February 2008. It is the first European treaty in this field, and has so far been ratified by 26 states.⁵⁵ The UK ratified the Council of Europe Convention on 18 December 2008, with a view to implementing its provisions by 1 April 2009. The Council of Europe Convention sets out the minimum standards to which the UK will have to adhere to following implementation. Some of the implementation plans are discussed below.

The Council of Europe Convention is based on the principle of gender equality and the protection of the human rights of victims of trafficking through provision of a comprehensive framework for the protection and assistance of victims and witnesses and the effective investigation and prosecution of trafficking cases. The Convention applies to all form of trafficking, whether national or transnational, and regardless of whether trafficking is connected to organised crime or not. The Council of Europe Convention sets out a number of standards to be followed by parties to it in relation to the following areas:

⁵³ <http://www.osce.org/odihr/13476.html>

⁵⁴ CM/Inf (2008) 28, 9 June 2008.

⁵⁵ At the time of this research, Albania, Armenia, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Denmark, France, Georgia, Latvia, Malta, Moldova, Montenegro, Norway, Poland, Portugal, Romania, Slovakia and the UK; subsequently ratified by Belgium, Luxembourg, Serbia, Slovenia, Spain and 'the Former Yugoslav Republic of Macedonia'. A new website for the Council of Europe's campaign against human trafficking can be found at <http://www.coe.int/t/dghi/monitoring/trafficking/>.

1. Prevention of trafficking in human beings, co-operation and other measures to combat it on the national and international levels
2. Establishment of measures to protect and promote the rights of victims while guaranteeing gender equality
3. Changes required, where appropriate, to substantial criminal law in Member-States
4. Standards and principles relating to the investigation, prosecution and procedural law in Member-States and
5. International co-operation and co-operation with civil society.

Of particular interest to the current study are the standards of victim protection and the standards and principles relating to the effective investigation and prosecution of suspected cases. It is therefore worth noting them here in greater detail. Article 10 of the Council of Europe Convention requires Member States to provide their competent authorities who are trained and qualified in identifying and helping victims, including children. It also requires that States ensure that the different authorities collaborate with each other as well as with relevant support organisations so that victims can be properly identified and assistance provided to them at the earliest possible opportunity.

One of the difficulties with this provision is the lack of definitional clarity in the Convention as to which bodies or organisations are deemed to be competent authorities. The Explanatory Report to the Convention enumerates in this category “public authorities which may have contact with trafficking victims, such as the police, the labour inspectorate, customs, the immigration authorities and embassies and consulates”.⁵⁶ This list, however, is not exhaustive and the lack of a more precise definition leaves it open to interpretation and to decision by Member States on the national level. As evidenced by interviews undertaken for this research, this represents a practical difficulty for those who are to be charged with victim identification and those providing assistance. This difficulty is not only in relation to who is authorised to make identifications, but also in relation to common criteria and focus for all authorities that would enable effective identification, provision of support, investigation and prosecutions of suspected cases of human trafficking.

The Council of Europe Convention further requires that States adopt such legislative and other measures (including policy measures) as may be necessary to identify victims in collaboration with relevant support organisations. The State should also ensure that when there are reasonable grounds to believe that a person has been a victim of trafficking they are not removed from the State’s territory until the identification process has been completed.

The Council of Europe Convention establishes a number of standards in relation to assistance that should be afforded to victims or potential victims of trafficking. Firstly, in relation to children or persons whose age is uncertain (disputed age cases) but there are reasons to believe that they are a child, the Convention requires that such person is presumed to be a child and is accorded special protection pending verification of his/her age. This provision is of particular importance for the situation in Northern Ireland, where (as highlighted by information collected during this research) questions have been raised about the level of appropriate protection for minors.

In accordance with the Convention's provisions, as soon as an unaccompanied child is identified as a victim, the State should provide representation of the child by a legal guardian, organisation or authority that would act in the best interest of the child; take the necessary steps to establish the child's identity and nationality; and make every effort to locate the child's family if this is in the best interest of the child.

The Council of Europe Convention outlines *minimum standards* in relation to assistance that should be provided to victims. Provision of assistance is required from the moment when the authorities have 'reasonable grounds to believe' that someone is a victim: it is not required that the identification process be completed before assistance is afforded, nor is it required that a criminal investigation be instigated. In all cases, the State is required to provide *at least*:

1. Standards of living ensuring the person's subsistence through such measures as appropriate and secure accommodation, psychological and material assistance
2. Access to emergency medical treatment
3. Translation and interpretation services
4. Counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand
5. Assistance to enable their rights and interests to be represented and considered at appropriate stages of criminal proceedings against offenders and
6. Access to education for children.

Additionally, States are required to take account of the victim's safety and protection needs, as well as other needs such as access to the labour market, training and education. The Convention also requires that States provide in the law for a recovery and reflection period of at least 30 days when there are reasonable grounds to believe that a person has been a victim of human trafficking.

Article 14 of the Council of Europe Convention states that parties to the Convention shall issue a renewable residence permit to a victim when either or both of the following circumstances apply:

- a. When the competent authority considers that the person's stay is necessary owing to their personal situation
- b. When the competent authority considers that their stay is necessary for the purpose of their co-operation in the investigation or criminal proceedings.

The issuing of a residence permit does not preclude the victim from seeking asylum in the State.

The Council of Europe Convention contains a number of provisions relating to the investigation and prosecution of human trafficking cases by States Parties. In particular the Convention requires that investigations into or prosecution of offences are not dependent on the report or accusation made by a victim. The Convention also obliges the State to ensure that legislative and other measures are in place to provide effective and appropriate protection from retaliation or intimidation for victims and their families, witnesses and their families and other persons who reported the offences or in any other way co-operated with the investigation. Special protection measures, taking into consideration the best interests of the child, should be afforded to victims who are minors.

Representatives of the Gender Equality and Anti-Trafficking Division of the Council of Europe participate in national and international events to promote the Convention. For example, a Round Table Discussion on 'Ireland and the Council of Europe Convention on Action against Trafficking in Human Beings: Protecting Victims. What Next?' was organised in Dublin on 9 April 2008; and a Round Table Discussion on 'Time for an Independent Trafficking Rapporteur in the UK?' took place in London, on 18 June 2008. During 2008-09, the Gender Equality and Anti-Trafficking Division was to organise bilateral and multilateral activities to promote the signature, the ratification, and the implementation of the Convention.⁵⁷

United Kingdom

The UK signed the UN Convention against Transnational Organised Crime in 2000 and ratified it on 9 February 2006; it signed the Council of Europe Convention on Action against Trafficking in Human Beings on 23 March 2007, ratified it on 17 December 2008 and implemented it from 1 April 2009.

Trafficking in human beings is criminalised under UK law in accordance with the provisions of two separate legal documents: the *Sexual Offences Act 2003* criminalises trafficking for all forms of sexual exploitation, while the *Asylum and Immigration (Treatment of Claimants) Act 2004* further criminalises all forms of trafficking, including for forced labour.

⁵⁷ The Council of Europe is also engaged in a variety of initiatives to promote the Convention. A new Rapporteur on the role of parliamentarians in promoting the rapid entry into force of the Convention was appointed by the Parliamentary Assembly on 24 January 2008, and was succeeded on 5 December 2008 by the current Rapporteur, Gisela Wurm. The monitoring mechanisms required by the Convention, including a (technical) Group of Experts on Action against Trafficking in Human Beings (GRETA) and a (more political) Committee of the Parties, were established during 2008 and are preparing for the first round of state-by-state monitoring.

Both Acts contain penalties for trafficking of up to 14 years' imprisonment. The United Kingdom Parliament subsequently legislated to criminalise the use of the sexual services of persons exploited in prostitution.⁵⁸ While provisions making trafficking in human beings a crime under national law now exist in the UK, the state so far lacks the relevant regulations providing assistance for and the protection of victims.

The Home Office published the *UK Action Plan on Tackling Human Trafficking* in March 2007 and emphasised the need to expand the focus on trafficking for sexual exploitation to child trafficking and trafficking for the purposes of forced labour. The Plan took account of the work of the United Kingdom Human Trafficking Centre, based in Sheffield, which was opened in 2006. The UKHTC employs a multi-agency approach to tackling human trafficking and includes representatives from the Police, Crown Prosecution Service, UK Border Agency (UKBA), Serious Organised Crime Agency (SOCA), social services, dedicated victim care coordinator, specialist tactical advisors and intelligence staff. The UKHTC aims to develop and promote a victim-centred human rights based approach to victims and trafficking.

The UKHTC has conducted a number of disruption operations in recent years. Operation Glover, conducted in October 2006, was funded by the Home Office and mobilised multi-agency staffing to combat all child trafficking. Thirty-three victims were identified during the operation in Great Britain – all female, aged between 12 and 15 years old – and some 18 alleged offenders were linked to various crimes. Offences included rape, sex with a child, abduction, serious assaults and drug offences. The investigation took six months from inception to conclusion (Palmer n.d.). The operation helped in identifying specific issues at stake with cases of trafficking and key indicators of risk for potential victims/stages of control of a victim.

These indicators of risk of a person getting into a trafficking network include: when a person is missing from home; and/or breaking away from family and friends; and/or involvement in drug/alcohol use; and/or disengagement from education; and/or secrecy in relation to where she/he is going and with whom; and/or change of appearance.

Operation Pentameter 1 ran for four months in 2006 in Great Britain. Eighty-eight victims were identified, including a dozen children aged 14 to 17, and 226 people were arrested. Operation Pentameter 2 was organised on a much wider scale, and included raids on brothels in Northern Ireland. The operation ran between October 2007 and June 2008 and was described by the Association of Chief Police Officers of England, Wales and Northern Ireland (ACPO) as:

⁵⁸ The Policing and Crime Act 2009, which became law in November 2009, made it a criminal offence (in England and Wales by s.14, and, in identical terms, in Northern Ireland by s.15) to pay or promise to pay for the sexual services of a prostitute exploited by a third party through force, threats, coercion or deception.

...a coordinated campaign of activity aimed at disrupting those who engage in trafficking for sexual exploitation throughout the UK, involving all UK police forces, other law enforcement agencies, the UK Human Trafficking Centre, and other voluntary statutory agencies (ACPO 2008).

A total of 55 police forces across the UK and the Republic of Ireland took part in the six-month project (Press Association 2008). As a result, it was initially reported⁵⁹ that 167 victims were identified; 528 people arrested; 822 premises visited; 6,400 police intelligence reports gathered; more than £500,000 worth of cash was recovered from those arrested; court orders were put in place to restrain further criminal assets running into several millions of pounds; and of those recovered 13 of the victims were children with the youngest aged just 14 years old.⁶⁰ Cooperation between the Republic of Ireland and the UK, and the use of networks to dismantle trafficking were said to have been key elements for the success of the operation:

A key feature was the use of a national intelligence infrastructure, which supported police operations. Intelligence reports were collated and placed onto a specifically created database on the HOLMES 2 system. This supported regional intelligence units and local forces, it highlighted organised crime links across the United Kingdom and beyond.⁶¹

Assisting victims

The POPPY Project was established in 2003 and is funded by the Office for Criminal Justice Reform (reporting to the Ministry of Justice). It is based in London. Accommodation (with 35 bed spaces in houses throughout London) and support are provided for women aged over 18 and who have been:

- a. Trafficked to Great Britain
- b. Forced to work as a prostitute in Great Britain and
- c. Sexually exploited in the three months prior to the date of referral.

Longer-term assistance can be provided to these women if they co-operate with the authorities:

This might entail giving information to law enforcement agencies for intelligence purposes or agreeing to be a witness in court.⁶²

59 These initial figures appear to have been somewhat overstated, with only five convictions for forcible trafficking eventually attributed to Pentameter 2 (in all cases involving persons already in custody when the Operation commenced): see footnote 24 above.

60 <http://www.ukhtc.org/>. During 2006 the Northern Ireland Human Rights Commission was concerned to find, in the course of a visit to the Dungavel immigration detention centre in Scotland, that a number of women were being held there with a view to removal from the UK, after their immigration status was found to be irregular as a result of Pentameter raids.

61 <http://www.ukhtc.org/>

62 http://www.eaves4women.co.uk/POPPY_Project/Accommodation_and_Support.php.

The POPPY Outreach Service was set up to assist women who do not meet the criteria to be given accommodation. Partnerships have been developed with hostels working with homeless people; refuges for victims of domestic violence; embassies; Refugee Legal Centre; Immigration Advisory Service; Refugee Arrivals Project, and the International Organisation for Migration. Specialist support services include the following:

- a. Provision of a food/subsistence allowance
- b. A health and needs assessment
- c. Registration with a GP in order to receive any necessary medical treatment;
- d. Access to counselling services
- e. Access to education and English classes
- f. Integration and/or re-settlement support including, where applicable, support with the voluntary return scheme
- g. Education sessions covering areas such as equal opportunities, welfare benefits and healthy relationships
- h. Help contacting family and friends
- i. Support accessing legal advice, including information relating to immigration status and applications for asylum
- j. Liaison with police and immigration services and
- k. Risk assessments and safety planning.

Republic of Ireland

The Republic of Ireland signed the Council of Europe Convention on 13 April 2007 but has not as of yet ratified it. This means that the State took on an obligation not to do anything that could undermine its provisions, although the provisions are not yet legally binding.

The Criminal Law (Human Trafficking) Act 2008 came into force on 7 June 2008. It creates separate offences of trafficking in children for the purpose of labour exploitation or the removal of their organs, trafficking in children for the purpose of sexual exploitation and trafficking in adults for the purposes of sexual or labour exploitation or the removal of their organs. The Act also makes it an offence to sell or offer for sale, or to purchase or offer to purchase any person, adult or child, for any purpose.⁶³ The Minister for Justice, Equality and Law Reform, Dermot Ahern, when announcing the signature into law of the Act by the President:

...drew particular attention to a provision under which it will be an offence to solicit or importune a trafficked person for the purpose of prostitution. "If there was no demand for the sexual services of trafficked persons", the Minister stated, "the traffickers would be put out of business overnight." (Department of Justice, Equality and Law Reform, 14 May 2008).

63 The Illegal Immigrants (Trafficking) Act 2000 – see footnote 27 – penalises the facilitation for profit of the entry into the state of illegal immigrants, for any reason, or of prospective applicants for asylum.

The maximum penalty of life imprisonment can be imposed on the conviction of trafficking in human beings or purchasing human beings. Other legislation still before the Oireachtas (the Immigration, Residence and Protection Bill 2008) would provide for victims of trafficking to be given a 45-day period for recovery and reflection, during which they would be granted permission to remain in the Republic of Ireland and have to decide whether they want to assist Gardaí in their enquiry. If they did, victims might be granted the right to stay longer in the Republic of Ireland. A number of non-governmental organisations were critical, indeed Ruhama criticised the fact that any extension of the 45 days period would depend on victims' co-operation with the criminal investigation (Irish Times, 9 June 2008).⁶⁴ The provisions were also criticised by the Immigrant Council of Ireland which called for not less than 60 days' recovery and reflection and the granting of temporary residency permits regardless of whether the victim's co-operation was necessary to the criminal investigation.⁶⁵

The Garda National Immigration Bureau, which was established in 2000, was given a specific remit on trafficking for sexual exploitation in 2002, and a special unit on trafficking for sexual exploitation was created. In addition to border control and document checks, the Garda actively co-operates with the European Police Interpol and Europol, notably through information exchange. The Garda also contributes to raising public awareness and to training for police, border guards, customs services and immigration liaison officers. Training is provided by the International Organisation for Migration. A pilot training project was conducted in Dublin in 2006. A key focus is the identification of victims (Pillinger 2007, p.35).

A specialised Anti-Human Trafficking Unit was established in November 2007 by Justice Minister Brian Lenihan to prepare for the enactment of the *Criminal Law (Human Trafficking) Act 2008*. The unit works with the Garda and the Irish National Immigration Service in targeting people trafficking for sex exploitation and illegal labour. Marion Walsh was appointed head of the unit in February 2008 (*Irish Times*, 7 February 2008).

Northern Ireland

Human trafficking is being addressed through co-operation with the authorities in Great Britain, in the Republic of Ireland and at regional (EU) and international level. Northern Ireland was not covered by Operation Pentameter 1 in 2006, but as part of Operation Pentameter 2, a special team of officers was established in Belfast and is working within the Organised Crime Branch of the Police Service of Northern Ireland. The NIO Minister Paul Goggins launched the special unit on 3 October 2007. The authorities in Northern Ireland, and particularly representatives of the PSNI's anti-trafficking unit, co-operate with the UKHTC and have in the past been trained by the UKHTC staff.

⁶⁴ As of November 2009, there were indications that the 45-day period would be extended to 60 days, with a possible six-month residence period thereafter.

⁶⁵ Immigrant Council of Ireland (2008) Analysis of the Immigration, Residence and Protection Bill 2008, at http://www.immigrantcouncil.ie/images/7670_irpbillanalysisandamendments.pdf.

Anti-trafficking activities undertaken by the PSNI, often in co-operation with other UK police forces and the Garda, intensified during 2008.⁶⁶ Welcoming the news of a PSNI raid on a brothel in Belfast on 13 January 2008, Amnesty International Northern Ireland criticised the absence of a legal framework to protect victims of trafficking in Northern Ireland:

...at the moment, [victims of trafficking] have no guaranteed protection in Northern Ireland. The law treats them as illegal immigrants and people here would be appalled to know that many of them are just deported. They are then at serious risk of re-trafficking (AIUK 2008).

In particular, Northern Ireland so far lacks the specific provision of services to victims of trafficking. The Poppy Project, while prepared to take victims from Northern Ireland if necessary, did not extend to this jurisdiction and the provision of appropriate assistance services here has been fragmented and ad-hoc. In the recent submission under the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Government stated that negotiations were taking place with service providers to ensure that the victim support mechanisms are in place before 1 April 2009. These were to include, among other things, access to specialised health care, legal advice, translation and interpretation services.

The NIO Minister Paul Goggins made an announcement on 25 March 2009 regarding the establishment of services for victims of human trafficking in Northern Ireland.⁶⁷ According to the NIO press release, the new services were to be funded by the NIO and the PSNI, and delivered by two non-governmental organisations – Women’s Aid (for women victims of sexual exploitation) and the Migrant Helpline (for male victims of sexual exploitation and for all victims of trafficking for the purpose of labour exploitation). Child victims of trafficking will be cared for in accordance with the provisions of the Children (Northern Ireland) Order 1995. While details of the provision of services were scant, the press release noted that they would “offer access to secure accommodation, healthcare and counselling for victims... It will also provide assistance with living expenses and full access to legal advice and translation services.” The services were to be fully operational by 1 April 2009, and were to be reviewed after a year with a view to assessing them for further delivery.

Developments in law and policy following the ratification of the Council of Europe Convention by the UK

While the scope of this report does not allow for a detailed analysis of all developments that have taken place to implement the Council of Europe Convention in the UK, a number of difficulties with the Government’s recent proposals need to be underlined.

⁶⁶ See for example: ‘Trafficked women rescued in Northern Ireland’, Belfast Telegraph (28 November 2008); ‘Nine brothels raided in human trafficking operation’, Irish Times (3 December 2008).

⁶⁷ Northern Ireland Office (25 March 2009) ‘Goggins announces extensive new support for victims of human trafficking’, Press Release.

Firstly, the protection and assistance under the Convention depends on proper identification of a victim. Article 10 of the Convention places a clear obligation on the state's competent authority to identify the victims. The UK government took a decision that the UKHTC and the UKBA were to act as the competent authorities in the UK.⁶⁸ This approach presents a number of difficulties – the Centre is largely staffed by law enforcement officers, both police and immigration, although it is a multi-agency centre; it is removed from locations where victims are recovered; and it is not yet clear how it is proposed that it will co-operate with NGOs which the Convention states should be involved in the identification process.

In its most recent submission to the Home Affairs Committee's inquiry into human trafficking, the Immigration Law Practitioners' Association (ILPA) raised a number of concerns in relation to what it calls "the confusion" in the UK's implementation of the Convention in this respect.⁶⁹ ILPA stated that according to its information, it has now been decided that "cases of human trafficking of UK nationals and EEA nationals will be dealt with by the UK Human Trafficking Centre, while other cases will be dealt with in the UKBA. This is the latest confusing development created by the way in which the UK has dealt with a 'competent authority' and will cause problems in practice".⁷⁰ ILPA further submitted that:

The term competent authority is widely used in international law and indeed in other parts of UK law to describe the State – and make reference to the arm of State with responsibility for a particular area. Competent is a reference to powers, rather than skills. Thus the Council of Europe Convention envisages that all organs of the State will incorporate protection of those who have been trafficked into their duties and responsibilities. The OSCE concept of a National Referral Mechanism is about co-ordinating those various efforts. But what this concept has become in the UK plans for implementation of the Convention is the notion of a centralised decision-making body who will sort those whom there are reasonable grounds to believe have been trafficked from those who are not, for all purposes.

In the recent debate in the House of Commons,⁷¹ an Under-Secretary of State for the Home Office stated that work is being done regarding the National Referral Mechanism that would combine all referrals and give access to a central system to all involved. Details of the system have not yet been published.

68 Hansard, HC Report, 3 February 2009, col. 157WH onwards.

69 Immigration Law Practitioners' Association (2009) ILPA Further Submission to the Home Affairs Committee Enquiry into Trafficking, March 2009. ILPA: London.

70 Ibid., at page 5.

71 Hansard, HC Report, 3 February 2009, col. 157WH onwards.

The second issue that has been raised regularly by NGOs is the provision to victims of the so-called 'recovery and reflection period'. The Convention requires states to give as a minimum 30 days to the victim. During the debate in the House of Commons (on 4 February 2009), the Home Office representative stated that currently the practice was to give 45 days, with extension to 90 days in certain cases and the provision of a residency permit in certain circumstances. In its recent report under ICESCR, examined by the UN Human Rights Committee in May 2009, the government stated that it would permit a 30-day reflection and recovery period, and any extension would be dependent on the victim's readiness to co-operate with criminal investigation.

Whilst complying with the letter of the Convention, the Government position is far from satisfactory as it is widely acknowledged that it takes months, if not years, for victims – particularly victims of trafficking for sexual exploitation – to recover. Furthermore, victims are often threatened by their traffickers or fear retaliation against their families in their countries of origin.

In those circumstances, it is unreasonable to expect that they will be able to make a free and informed decision about co-operation with law enforcement agencies in the space of 45 days. Such a reflection period is insufficient for the purposes of providing assistance and the recovery of the victims, and puts the victim under pressure to co-operate with the authorities. This aspect of assistance to victims is discussed in the next chapter.

Chapter 6. Policy Initiatives and Good Practice

The following sections discuss policy initiatives and models of good practice developed on regional and national levels that can serve as a basis for the development of a response to trafficking in human beings in the UK, including in Northern Ireland. In particular the chapter looks at issues concerning the protection of victims, the establishment of National Referral Mechanisms, and compensation for victims of trafficking. The discussion of models of good practice and relevant policy initiatives in this area is then linked in the next chapter to the findings on the provision of services in Northern Ireland. Relevant recommendations follow in the last chapter of this report.

Protection of victims

A victim-centred approach is currently promoted within the majority of international (UN and ILO), regional (EU, OSCE, Council of Europe) and national (US, UK, Republic of Ireland, etc) legal frameworks, as well as by civil society organisations working with victims of human trafficking. The victim-centred approach has developed in the context of attempts to establish a clear distinction in law between smuggled persons and trafficked persons, in order to be able to prosecute the former and protect the latter. The victim-centred approach to trafficking should therefore be understood in opposition to the prosecution-oriented approach to smuggling. Smuggled persons, who have by definition agreed to enter a country illegally, are often treated as illegal immigrants. In the US for example, a 2005 Department of Justice fact-sheet concluded that:

Persons smuggled are violating the law. They are not victims (US Department of Justice 2005, quoted in Srikantiah 2007, pp.191-192).

Trafficked persons are now widely regarded as victims and are increasingly granted greater protection in international and national legal frameworks. As emphasised in the Explanatory Report of the Council of Europe Convention on Action against Trafficking in Human Beings (Section 2, para. 45):

The main added value of the present Convention in relation to other international instruments is its human rights perspective and its focus on victim protection... [However] to be effective, a strategy for combating trafficking in human beings must adopt a multidisciplinary approach incorporating prevention, protection of human rights of victims and prosecution of traffickers... (ibid., Section 1.a.4.).

NGOs and international organisations generally interpret legal provisions on victims' protection in an inclusive manner:

Protection of trafficked persons should mean support to empower them and help them regain control over their lives. Current support and assistance should be reviewed to ensure that it corresponds to the needs of trafficked persons (ODIHR 2006, p.2).

This includes, for example, providing health care and shelter to victims of trafficking,⁷² as well as language classes or training to facilitate integration into the country of destination. The granting of residence permits should be part of any system of protection offered:

This allows victims a certain degree of stability and it also allows them to benefit from certain rights and to have access to a healthcare system (Cabral and Marengo 2003, p.5).

Furthermore, the victim-centred approach grants specific protection to vulnerable victims of trafficking. In the case of children, the ODIHR argued that emphasis should be placed on children's rights standards and prevention:

Policies and measures to combat child trafficking must be guided by child rights standards (and not migration or public security concerns), there must be safeguards in place to ensure that measures do not have a discriminating effect on the child. Special social policies and protection measures should be developed for communities that are particularly vulnerable, such as socially marginalised groups, including ethnic minorities and migrants. Effective child protection is also crucial in preventing trafficking in children (ODIHR 2006, p.2).

In the case of women victims of trafficking, several authors have suggested that to address this issue an integrated strategy to combat all forms of violence against women should be promoted (Dudley 2006; Kelly and Lovett 2005):

Trafficking should be regarded as a crime to be challenged with other forms of violence against women, like domestic violence and rape, by an integrated strategy that recognises their gendered and connected foundations (Dudley 2006, p.7).

It is worth noting that some authors and organisations have defended the view that focusing on forced labour rather than on trafficking, could lead to improved law enforcement against offenders, as well as better protection of the victims against abusive treatment. Anderson and Rogaly (2007) reported the following findings from the European Expert Group on Trafficking in Human Beings (2004):

⁷² For practical guidelines on the establishment, management, staff training and procedures to assist victims as well as ethical and safety principles and guidelines for caring for a trafficked person, See: IOM, 2007. The IOM Handbook on Direct Assistance for Victims of Trafficking. Geneva: IOM, pp. 109-271.

From a human rights perspective, there is no reason to distinguish between forced labour involving ‘illegal migrants’, ‘smuggled persons’ or ‘victims of trafficking’... States should criminalise any exploitation of human beings under forced labour, slavery or slavery like conditions, in line with the major human rights treaties that prohibit the use of forced labour, slavery, servitude etc. If such policies were followed, then many of the current confusions of the trafficking definition – whether a case was smuggling or trafficking, whether a case was trafficking or forced labour and whether a victim was perceived as ‘innocent’ or ‘guilty’ would become redundant (European Expert Group on Trafficking in Human Beings 2004, quoted in Anderson and Rogaly 2007, p.8).

The Role of Civil Society in the Protection of Victims

Non-governmental organisations play an important role not only in the development of international law and practice on combating trafficking, but may also play a role in the initial identification of victims followed by providing support through the provision of services for and work with victims of trafficking. They have the necessary experience of providing help to victims and their knowledge of the issue contributes positively to the development of international and national practice. In this context, trafficking-specific organisations co-exist and often co-operate with dual or multi-service organisations. These are:

...organisations originally developed to serve a population other than trafficking survivors, that have since expanded to serve trafficking survivors (Shigekane 2007, p.123).

They include for example, refugee-based organisations, and organisations working for the prevention of domestic violence. State-parties to the Council of Europe Convention are legally bound to encourage co-operation with civil society organisations. Chapter VI, Article 35 of the Convention states that:

Each party shall encourage state authorities and public officials to co-operate with non-governmental organisations, other relevant organisations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.

The Explanatory report of the Convention defines ‘strategic partnerships’ as:

...co-operative frameworks through which State-actors fulfil their obligations under the Convention, by coordinating their efforts with civil society (Explanatory Report of the Council of Europe Convention on Action against Trafficking in Human Beings 2005, para. 352).

In practice, these partnerships may be set up through round-table discussions and the establishment of memoranda of understanding (Explanatory Report 2005, paragraph 353). Mattar (2005) noted that while the Palermo Trafficking Protocol had no provision on the role of NGOs in addressing the issue of trafficking and, notably, in providing help to victims, the combination of Articles 6 and 9 could be interpreted as imposing such an obligation.

...the Protocol mandates that when a country is providing the appropriate preventive measures under the Article 9 or protective measures under Article 6, the country itself has to take these measures in co-operation with non-governmental organisations and other elements of civil society... Based upon Article 6 and Article 9, I will make the argument that there is an international obligation imposed upon countries to co-operate with NGOs. However, there is very little discussion as to the role of the NGOs (Mattar 2005).

The role of civil society in relation to compensation for victims of trafficking has also been underlined by the OSCE/ODIHR in a recent report written by Thompson and Jernow (2008). Civil society groups were found to be very active in advocating, and therefore in developing, standards for compensation, as well as in directly providing support for victims of trafficking. Amongst advocacy organisations, Thompson and Jernow (2008) quoted INAVEM in France; Victim Support in the UK; the European Forum for Victim Services (an umbrella organisation with a voice at EU level); the Global Alliance Against Traffic in Women; the Platform for International Cooperation on Undocumented Migrants; and trade unions who generally provide specific help to migrant workers.

There are a number of organisations that provide specific support to victims of trafficking. These include the Poppy Project in the UK, Sisters in Russia, La Strada in Ukraine and Moldova, ADPARE in Romania, Coalition Against Slavery and Trafficking, and the Safe Horizon and Polaris Project in the USA. Some organisations specialise in providing legal advice to immigrant and diaspora groups (Law and Migration Centre/Tajikistan Foundation in Russia; Chinese information and Advice Centre in the UK; Florida Immigrant Advocacy Center and Refugee Women's Network in the USA), undocumented workers (GISTI in France; Sweatshop Watch and Workers' Rights Law Centre in the USA), domestic workers (Kalayaan in the UK); and agricultural workers (CODETRAS in France).

Protection Measures and Mechanisms: Referral Mechanisms

A National Referral Mechanism (NRM) is defined as: a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, co-ordinating their efforts in a strategic partnership with civil society. The basic aims of an NRM are to ensure the human rights of trafficked persons are respected and to provide an effective way to refer victims of trafficking to services (OSCE/ODIHR 2004, p.15).

A Transnational Referral Mechanism (TRM) refers to: a co-operative agreement between countries on cross-border transfer and care of persons who have been victims of trafficking... The primary aims of a TRM include: formal international co-operative agreement on strategies for the safe and supportive movement of victims between countries of destination, transit and/or origin; standard operating procedures for effective and safe transnational referral of victims of trafficking to a range of necessary services; mechanisms for monitoring and evaluating the TRM. In all measures provided in a TRM, state security needs must be balanced against the health and safety needs and the rights of trafficked persons. To be effective, TRMs should be coordinated with a country's National Referral Mechanisms (NRM) (US AID, ICMPD, ACTA, MARRI, Ministry of Interior of the Republic of Bulgaria, n.d.).

A National Referral Mechanism is an inclusive model that articulates specific measures promoted by civil society organisations, such as the granting of a period of reflection and temporary residency to the victim, but also includes guidelines on, for example, compensation mechanisms and how to organise the return of a victim to their country of origin if they so wish. In 2004, the OSCE/ODIHR developed a very comprehensive handbook on NRMs, which outlined practical steps to be taken to implement this mechanism on a national level. These steps included:

- a. To undertake a comprehensive assessment of the nature and extent of human trafficking in the country
- b. To build an institutional anti-trafficking framework and
- c. Training and capacity building (for example, on standards of working with victims, return procedures).

OSCE/ODIHR developed 10 principles and best practice guidelines for the creation of NRMs. These are based on OSCE/ODIHR's own definition of trafficking:

1. Protecting the rights of trafficked persons should be the first priority of all anti-trafficking measures
2. An infrastructure to combat human trafficking should work on the basis of a broad definition of trafficking in order to have the ability to respond rapidly to different forms of human trafficking (notably, the structures in place should follow the US model that includes the trafficking of people for forced labour, and for sexual exploitation and not the European model which focuses largely on the trafficking of women for sexual exploitation)
3. Support and protection services should be accessible for all categories of trafficked persons (women, men and children; within and across national borders; exploited in all manner of ways)

4. A protection mechanism should include a wide range of different specialised services, addressing the specific needs of each individual, including accommodation, specialised medical and psychological care, counselling, maintenance, permission to work and continue education and training. Interestingly, OSCE/ODIHR (2004) noted that:

Frequently, a single shelter is used both to accommodate presumed trafficked persons and to serve as a location for police to carry out their questioning. Medical and psychological care can also sometimes take place in this same location. This can mean that presumed trafficked persons are neither able to retreat into a private sphere nor leave the protected accommodation due to security concerns or restrictions on their movement as a result of their status in the destination country (OSCE/ODIHR 2004, p.25)

5. Victim-protection mechanisms based on human rights can help secure successful prosecution:

Experiences in Western European countries have shown that the rate of successful criminal prosecution of perpetrators rises in countries where comprehensive NRMs have been set up in co-operation with NGOs. The critical factor here is the informed decision by the trafficked person to co-operate with the prosecuting authorities. (OSCE/ODIHR 2004, p.26)

6. Combating trafficking in human beings requires a multi-disciplinary and cross-sector approach, involving all relevant actors from government and civil society, to prevent confrontation between the human rights approach' and the law-enforcement approach
7. A structure to combat trafficking in human beings should assess and build on existing national capacity in order to foster ownership and sustainability
8. The guiding principles of an NRM should include transparency and the assignment of clear responsibilities and competencies according to the different mandates of all actors involved
9. NRMs are building blocks of effective regional and international co-operation to combat trafficking and assist its victims and
10. The process of implementing an NRM should be embedded in an overall democratisation process to ensure accountability and legitimacy.

The components of an NRM, as detailed in the OSCE/ODIHR handbook (2004) are:

1. The identification of presumed trafficked persons: which can take place through outreach work or street work (often carried out for the purpose of health education to persons active in the sex industry), through hotlines advertised in leaflets and media campaigns, and through law enforcement authorities. In practice, civil society organisations have encountered several barriers to the implementation of this approach. Firstly, some trafficked persons do not necessarily identify themselves as victims. During a civil society meeting on the applicability of NRMs to trafficking for labour exploitation:

A number of participants noted the unwillingness of exploited persons, in particular migrants, in both the sex industry and labour sectors, to perceive themselves as 'victims' with special assistance needs, which in many respects is central to the NRM model for many people, even a forced labour situation is seen as temporary and partly attributed to their lack of knowledge in navigating the labour market (OSCE/ODIHR 2007, p.3).

This was confirmed by Scanlan (2007) who argued that:

...many possible victims of trafficking of both sexual and labour exploitation do not see themselves as victims and are unwilling to be identified as such (Scanlan 2007, p.9).

Secondly, as underlined within the OSCE/ODIHR handbook itself, when identified by law-enforcement agencies in South Eastern Europe:

...the majority of the victims were not referred to support programmes and shelter but were sent to detention centres and prisons in order to be subsequently deported (Limanovska 2002, p.152, quoted in OSCE/ODIHR 2004, p.60).

2. Cooperation agreements between state and non-state structures: through the establishment of a Directive or of a Memorandum of Understanding, under which presumed trafficked persons are transferred from police custody to support and protection services operated by NGOs (OSCE/ODIHR 2004, p.65). In practice Scanlan (2007) observed that co-operation was obstructed by agencies themselves:

State agencies are more often than not untrusting of civil society organisations and do not accord them a role in the actual identification of victims, even though they may request that those same specialised agencies provide training to their staff (Scanlan 2007, p.7).

Furthermore, even when NGOs are involved in the determination of the status of an individual:

...where there are conflicts of opinion, the government agency's opinion invariably prevails (Scanlan 2007, p.7).

3. Support and Protection Services: including financial assistance, shelter, and specialised services such as crisis intervention, long-term psychological counselling, legal consultation, vocational training, and support to access employment opportunities. In practice, Scanlan (2007) observed that:

Political sensitivities can influence interpretations and responses to trafficking so that for instance only foreign nationals are seen as victims, identified and assisted, whilst one's own nationals are excluded from consideration. Alternatively, harsh sentencing guidelines for the crime of trafficking has inhibited prosecutors who feel safer prosecuting lesser crimes, which in turn may impact on whether someone is ultimately identified as a victim and entitled to subsequent benefits such as residency permits (Scanlan 2007, p.4).

Furthermore Scanlan (2007) reported that trafficked persons were not automatically granted a reflection delay, sometimes because they were also being charged with immigration offences and were obliged to provide evidence of the crime.

4. Repatriation and Social Inclusion: at the end of the reflection period or of the court proceedings. NRMs do not promote long-term residency. Repatriation and Social Inclusion require the provision of the appropriate documentation for the victim of trafficking; arranging for travel costs to be taken care of (through bilateral treaties, international organisations or NGOs); and ensuring that the security of the person is not at risk in their country of origin.

5. Specific Legal Provisions: regulating compensation; seizure of criminal gains or assets; the residence status of trafficked persons; data protection; witness protection and witness support.

Compensation

To compensate is:

to make amends to someone for loss, injury or wrong, especially by suitable payment. The term 'damages' is used when discussing the civil and labour procedure context, as damages excludes compensation where the source of the funds is a state-funded scheme (Thompson and Jernow 2008, p.15).

The right to compensation is part of the victim-centred culture, as it promotes access to justice for victims. It is defined in several international law documents including Article 25(2)⁷³ of the UN Convention against Transnational Organised Crime;⁷⁴ Article 6 paragraphs 2 and 6⁷⁵ of the Palermo Trafficking Protocol;⁷⁶ and in ILO standards on forced labour.⁷⁷ The two key elements to be considered in relation to compensation are:

1. Who is going to compensate the victim? State compensation and compensation by the wrongdoer being the two possible options and
2. What is the victim going to be compensated for? There are different types of offences or breaches that may fall under criminal, civil or labour law, and different types of losses (material and financial loss, or psychological damage, which some jurisdictions would recognise as ‘pain and suffering’).

ODIHR recently published a comprehensive report on *Compensation for Trafficked and Exploited Persons in the OSCE Region* (Thompson and Jernow, 2008). The report analysed compensation mechanisms in eight countries: Albania, France, Moldova, Romania, the Russian Federation, Ukraine, United Kingdom, and the United States of America. Having analysed the legal framework applicable in these countries and their respective policies in this area, the OSCE/ODIHR report concluded that:

While all countries in the study have at least, a criminal, civil or labour law procedure in place that enables compensation claims to be pursued against traffickers/exploiters, fewer have established state compensation schemes (Thompson and Jernow 2008, p.163).

Therefore:

The right to compensation mainly consists of a right to claim compensation from the trafficker/exploiter and, in case of violent crime, a right to compensation from state funds. These standards have also developed the principle that the profits made by traffickers through their exploitative activities should be used to benefit trafficked persons either individually or collectively (Thompson and Jernow 2008, p.9).

73 Each party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention... [States parties should] enable the views and concerns of victims presented and considered at appropriate stages of criminal proceedings.

74 Adopted 15 November 2000, entry into force 29 September 2003. Ratified by 134 states.

75 (2) Each State party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

information on relevant court and administrative proceedings;...

(6) Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

76 Adopted 15 November 2000, entry into force 29 September 2003.

77 Article 25 of ILO Convention 29 of 1930, as interpreted by the ILO Committee of Experts (See ILO Forced Labour Survey 2007, p.75, para. 139) and ratified by over 160 states; ILO Convention 105 of 1957, ratified by over 160 states. See also, ILO Committee of Experts' comments on Japanese 'comfort women', raising the issue of compensation (ILO Forced Labour Survey 2007, pp.141-142).

To date, however, only a small number of claims made against traffickers/exploiters have been successful. Notably, the report noted that:

...civil claims can be pursued within the criminal procedure in all of the countries analysed, except the UK (Thompson and Jernow 2008, p.9).

In general, the report indicated several factors influencing the limited implementation of compensation mechanisms:

- 1. Complex procedures existing within national and international legal frameworks:** *The existing compensation mechanisms, whether they envisage payment by the state or the wrongdoer, still poses barriers to individuals claiming and receiving compensation awards. They are complex, expensive and lengthy. They have restrictive eligibility requirements and may not be paid nor be enforceable due to difficulties with enforcement or asset seizure provisions. Transnational co-operation and the absence of the rule of law can further contribute to the systems not functioning (Thompson and Jernow 2008).*
- 2. State versus wrongdoer compensation, in relation to the type of loss covered:** *A particular problem relates to schemes that order the wrongdoers to pay damages as these are rarely paid; very few trafficked persons have received compensation monies in all the countries in this study. State compensation ensures the claimant receives at least some payment even if it does not cover all losses. State schemes therefore have potential for delivering justice so should be established or improved by widening eligibility criteria (Thompson and Jernow 2008, p.163).*
- 3. Victim condition:** *Trafficked persons are affected by specific factors inherent to their situation, which prevent them accessing compensation even where compensation mechanisms work well. Problems such as fear, language barriers, reluctance to contact authorities, feelings of humiliation and insecurity about immigration status all need to be overcome. Furthermore, accessing remedies requires knowledge and support. Information about justice measures and compensation claims is essential and needs to be made available in creative ways (Thompson and Jernow 2008, p.164).*

In light of the barriers outlined above, the ODIHR report recommended that States:

- Make available a multiplicity of remedies, so that at least one of them has a chance of success
- Undertake systemic and legal reform in the areas of civil, criminal and labour law, and provide legal aid for trafficked persons, as well as the possibility of regularised status to trafficked persons for the duration of the claim
- Strengthen the power of labour inspectors and similar bodies to include the power of granting compensation and

- Encourage mediation and other non-litigious systems of negotiating compensation payments.

The report also underlined the advocacy role of NGOs and recommended transnational co-operation as well as co-operation between NGOs working in the different areas related to trafficking (for instance, providing support to women, migrant workers, etc). A further set of recommendations detailed practical steps to be taken in order to better implement the right to compensation, and were categorised under 11 main fields of action.⁷⁸ Among those steps, the following issues merit further consideration:

- 1. A generous state-funded scheme that pays for both material and moral damage:** The authors found the eligibility criteria in the UK to be restrictive and the state scheme was feared to potentially exclude compensation for psychological damage. The report recommended that a separate fund, established within the Criminal Injuries Compensation Authority (CICA), should deal with trafficking cases; that therefore the criteria for eligibility and the types of damages available could be reviewed; that training was provided to the CICA staff and that trafficking claims could be dealt with more quickly than other claims.
- 2. The ability of criminal courts to grant compensation orders with enforcement powers:** The report found that prosecutors and judges in the UK are taking insufficient steps to ensure such orders were considered and granted. Compensation orders actually granted were so low that they risked humiliating the victim further. The OSCE/ODIHR report recommended that guidance to judges was provided; that the police and prosecutors took proactive steps to seize suspected traffickers' assets and that the assets were used for compensation; and that victims' interests were better represented in criminal proceedings. The OSCE/ODIHR report concluded that applications to civil courts or employment tribunals were rare in cases of trafficking and exploitation. This shows that access to civil justice and enforcement of labour rights is restricted by the existence of the barriers identified above.
- 3. The existence of pro bono services from lawyers and entitlement to free legal assistance in limited cases, as well as the provision of insufficient information on the right to compensation to victims:**

⁷⁸ Building a national victims' rights culture; Evaluating and monitoring the right to compensation at national level; Law enforcement, lawyers, prosecutors and judiciary; State compensation schemes: Compensation in civil and criminal proceedings; Labour/employment rights; Enforcement and asset seizure; Right to information and assistance; Role of NGOs; Role of IGOs; Further research required. (See Thompson and Jernow 2008, pp.165-171).

[Trafficked person's] *insecure residence status or their deportation is a further barrier... a residence permit scheme is required along with better access to legal counselling and representation. Prosecutors and judges should be put under a duty to ensure victims are advised of their rights and their views represented in court. Judges should be made aware of their powers to grant compensation orders without specific request (Thompson and Jernow 2008, p.127).*

- 4. The existence of a national minimum wage legislation:** The report recommends that information should be made available to migrant workers, and the national minimum wage should apply to workers in trafficked situations, who should also be able to access remedies. The report also recommended that the wage inspectors should be able to identify situations of trafficking in the course of their work.
- 5. Practical help provided by many specialised NGOs:** In relation to the UK, the report concluded that only short term funding was available, and to only one NGO in London, to take part in identification and assistance to victims. Therefore, the report recommended the creation of a wider network of assistance to support this work with victims of human trafficking.

The Return of Trafficked Victims?

The Palermo Trafficking Protocol states that victims of trafficking should only be repatriated to their countries of origin “with due regard to the safety of that person”. Similarly, the OSCE/ODIHR emphasised that safety was central to the question of return:

*The OSCE Action Plan to Combat Trafficking equally requires participating States to consider the safety of a trafficked person on repatriation and ensure the effective application of the principle of ‘non-refoulement’.*⁷⁹

In 2005, the OSCE/ODIHR organised a conference with practitioners from Moldova, Poland, Switzerland and the UK to discuss issues of concern in relation to the repatriation of victims of trafficking to their country of origin:

...reports indicate that the identification of trafficked victims in destination countries remains inadequate. There are also concerns that trafficked victims will increasingly become the victims of expedited deportation processes. Measures to ensure the rapid removal of ‘illegal migrants’ can obscure the need to identify trafficked victims and may lead to their detention and summary deportation, sometimes within hours.

⁷⁹ http://www.osce.org/documents/odihr/2005/09/19177_en.pdf. Non-refoulement is the legal principle that persons with a well founded fear of persecution must not be returned involuntarily to a country where they would be at risk.

Consideration for the safety of trafficked persons in these circumstances is rarely taken into account. On the other hand, where trafficked victims have been identified, practice differs as to how that person's safety is assessed before their return. What exactly needs to be established and how this is best achieved is an issue of growing concern.⁸⁰

Attempts to deal with assisted returns in cases of human trafficking include the programme set up by the International Organisation for Migration. The IOM, an intergovernmental organisation established in 1951,⁸¹ assists people whose visa has expired; people who do not have a legal status in the country where they are staying; asylum seekers; and people who have been trafficked or smuggled into a country to return to their home country. The IOM has offices in over 100 countries worldwide, and provides individuals willing to return to their home country with reintegration assistance, in addition to paying for travel costs. In its second Stories of Return report the IOM found that:

The overwhelming majority of returnees have used their reintegration assistance to contribute to the purchase of supplies and equipment to set up a small business. Some however have used the assistance to pay fees for vocational training courses and a few to pay for their children's education (IOM 2007).

However, many organisations argue that victims' protection implied allowing them to stay in the country where they were rescued. In this respect, the Northern Ireland Women's European Platform⁸² recommended that:

The UK government... should make a clear commitment to grant temporary or permanent residence to victims at risk of further abuse if deported (NIWEP 2008, p.9).

Similarly Ruhama⁸³ recommended in its submission to the National Action Plan to Prevent and Combat Human Trafficking (2007) that:

After the reflection period, women need to be given temporary residency permits which are renewable every 6 to 12 months and eventually permanent residency if valid (Ruhama 2007).

80 http://www.osce.org/documents/odhr/2005/09/19177_en.pdf

81 The International Organisation on Migration was established in 1951. With 125 member states, and a further 18 states holding an observer status, IOM provides advice to governments and migrants, and works in four broad areas of migration management: migration and development; facilitating migration; regulating migration; forced migration. More information can be found at www.iom.int.

82 The Northern Ireland Women's European Platform is an umbrella body of groups with a primary interest in matters of importance to women, and is the only NGO in Northern Ireland holding Special Consultative Status with the Economic Social Council (ECOSOC). This gives NIWEP "the opportunity to attend and contribute to debates on critical issues at the United Nations" (NIWEP 2008, p.3)

83 Ruhama is a non-governmental organisation assisting women involved in prostitution, based in Dublin since 1989. Ruhama regards prostitution and commercial sex exploitation as violence against women and violations of women's human rights.

Several NGOs and programmes throughout the world work for the rehabilitation and integration of victims of trafficking into their new community or country. Recent research in the US showed that:

Survivors of trafficking face multiple challenges when trying to integrate into new communities. Some survivors suffer from psychological trauma and frequently lack the skills to function independently in American society... to achieve successful community integration, trafficking survivors require unconditioned access to immigration relief and human services, such as shelter, food, and medical care, as well as intensive support services carefully tailored to meet their needs (Shigekane 2007, p.135).

In the Republic of Ireland, the Immigration, Residence and Protection Bill 2008, still before the Oireachtas, would provide victims of trafficking at least a 45-day period for recovery and reflection, during which they are allowed to remain in the country and following which they may be granted a temporary residence permit. It should be noted that the UK has opted out of the *EU Council Directive on the residence permit issued to third country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who co-operate with the competent authorities*.⁸⁴

It has been argued that an actual victim-centred approach would conciliate victims' right to return to their country of origin with victims' right to remain in the country of destination, by emphasising victims' freedom of choice and by allocating resources to both programmes equitably. Vaz Cabral and Marengo (2003) recommended that assistance by a specialised NGO, a national or an international organisation, should be personalised (on a case-by-case basis) and should allow for both assistance for integration into the country of destination (through the granting of a residence permit; literacy classes; language classes; evaluation of skills and abilities; elaboration of a realistic professional project; training programmes; integration into the employment market) and 'assistance for a voluntary return and reintegration into the country of origin' (through pre-departure services; transportation assistance and services; and post-arrival and reintegration services following IOM's methods of intervention).

One of the aims of the current study was to assess the practice of victim identification, and the provision of protection and assistance in Northern Ireland against the standards, or policy initiatives discussed above. The next chapter presents the findings of this part of the study, and links them to recommendations for further policy and practice development in Northern Ireland.

84 2004/81/EC, 29 April 2004. The Council Directive states that if during the period for reflection the victim's clear intention to co-operate with authorities is established, s/he can be issued a temporary residency permit for a period of at least six months.

Chapter 7. Findings

As stated previously in the report, effective access by victims of trafficking to services designed for their protection and assistance is based on a co-ordinated approach to the identification of victims and multi-agency engagement. In turn, appropriate identification of victims is dependent on the existence of a network of trained professionals in both the statutory and voluntary sectors. While some initiatives have been taken in recent years in relation to the provision of training (in particular) and the provision of services for victims, gaps still exist in these areas.

Referrals and follow-up

The research noted that in relation to trafficking cases, some referrals are made to the police by the UKBA, either when suspicions are raised during passport control, during targeted enforcement operations (for instance, during Operation Gull at Belfast ports) or when the UKBA personnel come across suspected cases of trafficking in the course of traditional enforcement work (raids on businesses and homes). The research also showed that for cases which have been identified, the co-operation between the police and UKBA has proven to be effective and that a certain level of flexibility on the part of the immigration authorities has certainly been beneficial to the trafficking victims. As one legal practitioner stated:

All I know about the relationship between the UKBA and the police is [that in some cases] the relationship has been good from the [victim's] perspective, there has been no immediate hurry for the police to be notifying the UKBA about anything because their view has been this is not the issue here, the issue is the protection of this person which is really good.

The research was unable to establish how many people are being referred in this way each year, or what circumstances result in the decision being made to refer a case. Some doubts were expressed by organisations providing legal advice as to how effective immigration control may be as a first point of contact in trafficking cases:

We don't know what the relationship is between the immigration officers and the police at the airport, bearing in mind the increase in immigration powers. I would imagine that the immigration officers deal with the majority [of cases] themselves.

The question is whether immigration control can be effective in the identification of victims and subsequent sign-posting to relevant support mechanisms. The information collected indicates that a number of cases have recently been referred by UKBA for investigation by the police following concerns that arose during asylum screening interviews and that the procedure allows the police sufficient time to investigate any suspicions of human trafficking. The potential victim is given a 45 days reflection and recovery period while those investigations are on-going. The research further found that UKBA are quite supportive if this period needs to be extended further, or if the person requires a temporary permission to stay. Their asylum process is not halted for the period of investigation, but the criminal investigation takes precedence over any immigration proceedings in relation to that person. This practice is encouraging, and should continue in accordance with necessary protocols between the police and UKBA in the future.

The role of immigration staff in identification procedures is an important one. They will often be the very first point of contact with the trafficked person, both in transit countries and in countries of destination. However, immigration control has a different focus, and is often viewed through the prism of a culture of disbelief rather than as a mechanism to disrupt human trafficking routes. The primary aim of immigration control is to disrupt illegal immigration. This is particularly difficult in trafficking cases as many of the people who are being trafficked are coerced into destroying their travel documents, or travel on false passports and other forms of identification. As one legal practitioner pointed out:

...the problem with this is also the whole issue about “oh, you’ve been caught at the airport trying to destroy passports or whatever else”. The difficulty with that is that this is seen as an indication of committing a crime and it is perceived as something that is obviously guilt, it’s an indication of guilt without understanding the reasons behind it.

The interview process at entry ports can be quite intrusive and it is clear that immigration control can put the person under stress. As a result victims may not be willing to divulge any details of their status, particularly if they are accompanied on their trip by the traffickers or when there are any indications that the victim’s family is threatened in their country of origin. It is also unlikely that they will give details of the arrangements made to enter the country if they are coming here to undertake undocumented employment. The need to recognise that victims of trafficking may present themselves as people who are trying to enter without documents is very clearly one of the starting points in relation to the change of the culture of immigration control:

Because they flushed [the passport] down the toilet at the airport does not mean that they haven’t been trafficked or that they are not asylum seekers or they haven’t got a genuine reason for being here.

A number of voluntary organisations providing front-line services which potentially may come across victims in their day-to-day activities noted that information is not widely available throughout the sector on whom to contact when concerns are raised. The information provided indicates that a small number of voluntary organisations have now been trained by the police in identification protocols, but this is the exception. While some organisations knew the details of the anti-trafficking unit in the police and would treat them as a first point of contact if any case arose, others quoted a number of contacts in other police departments, or indeed in the UKBA as their first point of contact. Similar situations seem to exist in some public authorities, including regional social services offices. Significantly, there appears to be very little independent training outside of the PSNI.

Interviewees also indicated that information provided by them is not always followed by the police locally, or information is not provided on what happens after concerns have been raised. A representative of one support organisation stated:

Any information that I get about it, we have reported it to the police, I am not aware to date of any action that the police have taken on these things.

The identification of victims and contacting support is vital in the provision of assistance to victims of trafficking. While not all cases will be referred to the police, information about points of contact should be made widely available to those who may come into contact with victims. The police are planning to focus on an information campaign during 2009 and this may prove helpful. The extension of training for non-governmental organisations, churches, community groups, and public services could be effective if adequately supported and funded.

The study revealed concerns in relation to the practical arrangements for identification of victims that will be introduced following the ratification by the UK of the Council of Europe Convention on Action against Trafficking in December 2008. There would appear to be a lack of clarity as to who will act as the competent authority or authorities in the UK and what protocols are going to be in place to ensure that all those having a role in the identification of victims will work to the same criteria. As one law enforcement officer put it:

...whoever the competent authority is, if someone ever decides whoever the competent authority will be, obviously Border Agency may take on that role, they will have their own criteria before they will say that person has been trafficked. Police and law enforcement may not agree with that, they may have their own criteria so it is going to be a [conglomerate] of different agencies who will never decide anything because they will have their own criteria. We wait with bated breath to see who is going to take that on.

Services, training and future directions

There was much criticism of the organisation of Pentameter 2 in Northern Ireland in 2008 by the various support organisations. This criticism specifically focused on the lack of provision of safe accommodation, the general focus on criminal prosecution rather than on providing support for victims recovered through the Operation, and the short reflection and recovery period that was offered to victims. A representative of one organisation stated that:

It is a difficult situation, it's a huge gap at the moment, there really is no place for women who work in the sex industry to find refuge and to find security and because there is [no provision] in many cases there is no recourse to any benefits or any public funds then where are they to go? There isn't anywhere for them to go.

Some significant criticism was also expressed concerning the process of dealing with sexual exploitation cases by reference to the criminal justice response to rape cases:

I think if you look at how rape crisis, rape situations are handled at the moment, that will give you a good insight into how you would or would not encourage a woman to go forward with anything because there is very little real support there for women, in fact it's a harrowing experience, that whole process... There is nothing that would lead me to believe that the rape procedures at the moment [are] in the victim's best interest.

The complexity of the issue and how a number of appropriate interventions may be required is illustrated by the following comment made by a legal practitioner:

Trafficking isn't just an individual issue. There may or may not be violence; there may or may not be immigration [issues]; there may or may not be crime, all linked in... the trafficked person doesn't sit on their own in isolation as a trafficked person.

Those complexities are illustrated by a case of a woman from North Africa who had been trafficked to another African state in the first instance. There she was subjected to gang-rape and then returned to her country of origin. She was later transported to Belfast through an unidentified airport. In this case, the person managed to escape from her traffickers and was later arrested in Belfast for a crime. When immigration officers became involved it became clear to them that this person had been trafficked and she was referred to the police. This example identifies multiple issues that need to be addressed through appropriate assistance.

Potentially they include rape crisis intervention and/or trauma-related services, immigration advice, criminal law advice, provision of safe and secure accommodation, and legal assistance should the woman decide to co-operate with the investigating authorities as a witness. All of these considerations should form the basis of an integrated assistance package. As one of the legal practitioners put it:

The difficulty is, we need some sort of coordinated approach to where are the sources of expertise, who you contact, who can help, if they can't help, who can and where do you go to next.

The need for the provision of locally based services was stressed by many of the interviewees and the use of support structures that were based in England, Scotland or Wales was perceived as insufficient and possibly inappropriate for the victims. A law enforcement officer stated:

The last thing you want to do with trafficked victims is to put them on another plane and fly them to somewhere else they don't know to put them in another property... keep the victims locally so we can support them locally.

One legal practitioner suggested that the provision of appropriate services would be beneficial not only to the victims, but would also allow law enforcement agencies to address this issue with greater success:

Provision of appropriate services will also assist the police because they can only prosecute if the person feels safe to disclose, etc. and stay in the country in safety, otherwise they will leave. The police can prosecute without the victim being here but it makes it significantly harder to get a conviction.

This study has highlighted how such services are necessary in Northern Ireland, and this concern appeared to be mirrored in the March 2009 statement by NIO Minister Paul Goggins, who recognised that Northern Ireland had to be included in work on human trafficking.⁸⁵ Support for victims who have been trafficked for labour purposes should assess the provision of immigration advice and any review of such support should include consultation with UKBA in relation to identification procedures following raids on businesses and private homes. Victims should be given the opportunity to disclose their circumstances without fear of immediate deportation. Support for male victims of trafficking for labour exploitation requires a very specific approach, considering that:

85 Northern Ireland Office (25 March 2009) 'Goggins announces extensive new support for victims of human trafficking', Press Release.

The majority [of victims] will be male, young men, they don't want to stay in support networks, they want to move on and go and work somewhere else because they are always wanting to make money and even gaining their co-operation is very, very difficult... the young men, they want to move on and they... won't stay for legal proceedings that may be a year, a year and a half away.

The study also brought to light the fact that while training was provided to some law enforcement agencies, very little awareness-raising seems to be taking place outside of these agencies. Staff in the Organised Crime Branch (OCB) have now been trained by the UKHTC in issues relating to human trafficking. OCB has a dedicated anti-trafficking unit with a number of officers working exclusively on suspected trafficking cases. While this specialised unit is relatively small, additional officers can be drawn in from other Departments of OCB as required.

During the course of the study the existence of the dedicated anti-trafficking unit in the Metropolitan Police in London was threatened due to lack of funds, but this has since been resolved by the Home Office. Information regarding the situation locally highlighted that resources are currently in place to sustain the specialised anti-trafficking unit in Northern Ireland but the situation may be affected by budgetary constraints.

Given that the study indicates that human trafficking into and through Northern Ireland is increasing, the Northern Ireland Executive and the Northern Ireland Office should ensure that difficulties such as those experienced by the Metropolitan Police be pre-empted in Northern Ireland, and that sufficient funds are provided to continue specialised anti-trafficking investigations. One of our interviewees working in law enforcement contended:

My own personal view is it's a very specialised area that requires specialised units to deal with it, and you need to make the personal contacts with the other organisations and government departments. They need to know what you are talking about and talk to the right people in order to effectively investigate and support the victims as well.

Information regarding trafficking in human beings is now available to all police officers through their internal computer networks and training resources. Serving police officers should be encouraged to familiarise themselves with the available material and knowledge of the issues should be checked during annual appraisals as is knowledge of human rights issues. One gap identified in relation to police training in this area is the lack of provision for new recruits. This situation should be reviewed as a matter of priority.

The training of police officers in identification protocols is one of the core elements of the identification system, particularly where – as is the case in Northern Ireland – operational decisions and responsibilities, including those relating to brothels, are devolved to District Command level. It is vital that officers who come in contact with potential victims know what to look for. Information gathered during interviews indicates that there have been cases where people were dealt with as perpetrators of crime (for instance some were arrested for begging on the streets or shoplifting) and subsequently removed from Northern Ireland when information provided by the interviewees pointed to the fact that they had been trafficked. Not only were these victims not supported and assisted, vital information about traffickers and trafficking routes has potentially been lost. While the situation in relation to the reporting of suspected cases is improving, the police should monitor developments on a regular basis.

The study indicates that a significant amount of training was also provided to the Department of Public Prosecutions and a number of prosecutors in Northern Ireland now specialise in dealing with trafficking cases.

One of the gaps in relation to the training of the legal profession on human trafficking identified by a number of interviewees was the lack of knowledge and understanding of those offences by the judiciary in Northern Ireland. Opinions have been expressed that:

[judges in Northern Ireland] are very used to dealing with certain types of cases, they are very experienced at that and seem to be very capable of it. When new offences are brought to the fore, such as human trafficking, or even some other sexual offences [they are] very slow to actually be educated.

In this context, one of the recent convictions for controlling prostitution and for human trafficking in Northern Ireland was criticised, as the person involved was sentenced to a three months suspended jail term.⁸⁶ One of the interviewees stated that:

If you read about it in the paper, it sometimes doesn't have the impact as when you know what actually happens to the victims all the way through, or what potentially can happen to them in the future. So the next stage is now to educate the judiciary and say 'you must look at this in the format and context that it is in', and hopefully implement the minimum sentencing guidelines in Northern Ireland as well.

⁸⁶ The trafficking conviction was subsequently found to be erroneous on legal grounds and the PPS, on its own initiative, moved to have the conviction voided. This is likely to mean that PSNI statistics on the numbers of 'rescued' victims elsewhere in this report may be subject to adjustment.

8. Recommendations

This research was commissioned as a scoping study to assess the nature and extent of human trafficking in Northern Ireland. The aim was to conduct interviews to identify areas of concern, and provide analysis of local and international practices in relation to combating trafficking and support for victims. This study, whilst limited in scope, gives an indication of the next steps and highlights a number of key issues outlined below.

The principles developed by the Office of the High Commissioner for Human Rights, the most important of which focuses on the primacy of the human rights of trafficked persons, should be at the centre of all efforts to prevent and combat trafficking.⁸⁷ Detailed guidelines in relation to a number of aspects of trafficking include:

1. Promotion and protection of human rights
2. Identification of trafficked persons and traffickers
3. Research, analysis, evaluation and dissemination of information regarding trafficking
4. Ensuring an adequate legal framework
5. Ensuring an adequate law enforcement response
6. Protection and support for trafficked persons
7. Preventing trafficking
8. Special measures for the protection and support of child victims of trafficking
9. Access to remedies and
10. Co-operation and co-ordination between States and regions.

Service provision

There are limited services for victims of human trafficking and particularly for children and young people who arrive in Northern Ireland unaccompanied. Children are disappearing from accommodation provided by Social Services. This is a serious issue and appropriate provision has not been made despite evidence that children are trafficked for the purpose of both sexual exploitation and forced labour. Recently introduced provision of services to victims of trafficking in Northern Ireland, as announced in the statement on 25 March 2009 by NIO Minister Paul Goggins, goes some way to remedying this situation.

- 1. A co-ordinated, multi-agency approach, led by the Department of Health, Social Services and Public Safety along with the PSNI, should be established to co-ordinate services for victims of trafficking to and within in Northern Ireland. Provision of services for children and young people arriving in Northern Ireland unaccompanied, and those (in care or otherwise) who may be at risk of internal trafficking, should be given priority. The practice of placing unaccompanied minors in bed and breakfast accommodation without support should be abolished. Non-governmental organisations with experience in the field of child protection should be resourced to introduce the type of protective accommodation necessary for children trafficked into Northern Ireland and those at risk of internal trafficking.**

- 2. The following support plan should be developed (with particular elements dependent on the nature of exploitation):**
 - a. Safe accommodation, and in the case of children and young people, specialised foster care;**
 - b. Trauma support services and counselling, including specialised support for children;**
 - c. Rape crisis intervention;**
 - d. Immigration advice;**
 - e. Legal advice in relation to criminal proceedings and advice to the victim on the witness support scheme;**
 - f. Advice on welfare and employment;**
 - g. Assignment of Guardian ad Litem to every unaccompanied minor that is a victim or suspected victim of human trafficking; and**
 - h. Rehabilitation programme of support and services.**

- 3. The Ministerial review in 2010 of the new arrangements should be carried out with the active involvement of service providers, legal practitioners and NGOs providing support and advice to victims.**

During the course of the research, the UK ratified the Council of Europe Convention against Trafficking, with a view to implementing its provisions in national legislation and practice by 1 April 2009. A number of concerns were raised by non-governmental organisations, immigration law practitioners, law enforcement officers and parliamentarians in Westminster debates regarding the plans for the practical implementation of the Convention initially presented by Government. These concerns related in particular, but by no means exclusively, to a) designation of the UK Human Trafficking Centre and the UK Border Agency (UKBA) as the 'competent authority' for the purposes of the identification of victims; and b) the provision of a sufficient and realistic reflection and recovery period, that would be centred on the needs of the victims, and not dependent on their co-operation with criminal investigation. The Ministerial review should address these issues.

Identification of victims

A number of cases were identified in this study where the police have been very supportive to victims trafficked for either sexual exploitation or forced labour. Officers working both in the Organised Crime Branch and in the specialised human trafficking unit in the PSNI have often been commended for work in this field. A number of concerns have, however, been expressed that merit further attention in relation to the PSNI's role in the identification of victims through the disclosure process.

It would appear to be the case that information in relation to who to contact within the PSNI if an organisation suspects a case of human trafficking is not widely available and a number of organisations are still using a variety of contacts to report their suspicions. This may lead to a delay in reporting within the PSNI and general confusion in relation to appropriate procedures. Taking into consideration the circumstances in which victims could contact various organisations, particularly if they have brief opportunities for contact with outside agencies, time is of the essence in relation to contacting the relevant authorities.

4. An information campaign should be organised by the PSNI to ensure that contact details for the PSNI are available across the community and voluntary sector, as well as across other organisations that can potentially assist in the identification of victims. This network could include migrant support organisations, advice agencies, churches, hospitals, women's organisations, trade unions etc.

The identification of victims of trafficking at the earliest opportunity is vital to the provision of safety and support. Victims may often come into brief, or even extended, contact with a number of voluntary organisations and statutory bodies, as well as churches, interpreters, etc. It is essential that staff at all potential points of contact are properly trained in identification protocols and are aware of procedures for reporting suspected cases to support organisations and the police.

5. Specialist training on identification of potential victims of trafficking should be provided to relevant organisations.

Forced labour

A co-ordinated approach is central to labour inspection in order to eradicate cases of forced labour. Northern Ireland should not fall behind other jurisdictions on this issue. Labour inspection in Northern Ireland is fragmented and it is unclear how information is shared between the various inspection bodies that could potentially play a significant role in the identification of victims of trafficking for forced labour.

6. The Department for Employment and Learning, the Gangmasters Licensing Authority, HM Revenue and Customs and the UK Border Agency should introduce mechanisms to address forced labour within all sectors of the economy. The identification of victims of human trafficking should be separated from the issue of immigration control.

In ensuring that workers are not being exploited in a variety of employment sectors it is also crucial that victims of trafficking for forced labour are not removed as immigration offenders but are protected and supported within services appropriate for victims of human trafficking.

Training of law enforcement agencies

The PSNI initiatives in relation to the training of specialised officers and to the provision of specialised materials relating to trafficking on the internal communication network are to be commended. One gap that has been identified is the lack of training for new recruits in this area.

7. The PSNI should provide training on human trafficking to new recruits.

The training of police officers in identification protocols is also one of the core elements of the identification system, particularly where – as is the case in Northern Ireland – many operational decisions and responsibilities, including those relating to brothels, are devolved to the District Command level. Police officers who come in contact with potential victims should know what to look for so that they do not wrongly identify cases.

8. The PSNI should train police officers in the identification protocols to better enable officers to recognise signs of human trafficking.

The criminal justice sector

Although the relevant legislation criminalising trafficking in human beings has been in place on a UK-wide basis since 2003-04, there are some concerns about how this has been implemented in Northern Ireland so far. In the only case that concerned trafficking in human beings for sexual exploitation, the person responsible was sentenced to two years' imprisonment and the execution of the sentence was suspended.

9. Training in issues relating to human trafficking should be provided by the Judicial Studies Institute in line with training provided to law enforcement agencies and the Public Prosecution Service.

The research revealed that trafficking for labour exploitation in Northern Ireland is taking place yet any investigations or other interventions tend to be sporadic. We are concerned that in cases that have reached the criminal or civil justice systems victims have often been left without compensation, particularly due to the fact that the perpetrators left Northern Ireland and the authorities were unable to access assets or enforce compensation orders abroad. Two issues merit swift attention in such cases.

10. A review of the criminal and civil compensation systems in Northern Ireland should ensure that victims of trafficking have adequate redress and that effective compensation schemes for victims of trafficking are at the core of a victim-centred approach to trafficking in Northern Ireland.

Data collection

There are no systems of data collection that would allow for a comprehensive assessment of the scale of human trafficking in Northern Ireland.

11. The Northern Ireland Office should begin a wide-scale consultation with all relevant departments and organisations, including non-governmental organisations, on how data should be collected, stored and made available for assessment. The consultation should include discussions with the PSNI, the Public Prosecution Service, the Court Service, the Department of Health, the Department for Employment and Learning (in relation to inspections carried out by that Department), the Gangmasters Licensing Authority, and HM Revenue and Customs.

Currently, no statistics are available in Northern Ireland regarding the number of people removed following immigration control at ports of entry, or through the UKBA's enforcement work. It is difficult, therefore, to assess whether there are any cases that potentially may arise through this control, and there are no statistics relating to where people are removed.

12. A similar review should be undertaken by the UKBA and statistics made available on a regular basis to enable monitoring.

The authors recommend that the following principles be observed by organisations working on trafficking:

- Trafficking is not presented in a stereotyped or clichéd way (in particular that may enhance racial or other prejudice)
- Discourse and actions around trafficking are not used to conflate migration with criminality nor conflate migration control measures with anti-trafficking measures
- Measures taken do not damage or further marginalise victims of trafficking or other vulnerable groups

- Discourse and actions do not distort the boundaries between trafficking, smuggling and rescuing and
- The structural factors that facilitate the vulnerability of those who have been trafficked is highlighted.

Suggestions for further work by NIHRC and ECNI

In addition to the recommendations above addressed to public authorities and policy makers, the authors suggest that the agencies that commissioned the present report – the Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland – undertake further consultation and reflection on how best to address, within their respective statutory functions, competences and resources, the range of issues presented by human trafficking, and how to secure changes in law, policy and practice to improve protection of the rights of victims.

Trafficking in human beings constitutes a gross violation of human rights, and exploits and perpetuates social inequalities, including gender inequality. The Commissions should encourage the resourcing of further research into the nature and extent of human trafficking in Northern Ireland, as well as into the effectiveness of legislation and the provision of new services to victims of human trafficking, so that policy-making in Northern Ireland in this area is based on appropriate evidence. This should include consideration of the particular needs of victims of various forms of exploitation.

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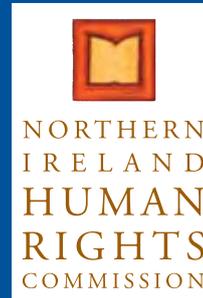
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