

Countering Human Trafficking: The UK's Efforts



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Countering Human Trafficking: The UK's Efforts

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Migration and the Security Sector Paper Series

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This 2015 paper by Bernie Gravett of Specialist Policing Consulting UK, analyses from a security sector perspective, the structure, politique and process of efforts to counter THB.

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Introduction

Human trafficking is a subject of growing concern, both internationally and domestically. There are some difficulties of definition, as various different terms are used inconsistently, and it is also very difficult to get a clear idea of the numbers of people involved in human trafficking. Despite this, there have been various international agreements, studies and campaigns to address the problem. Various legislative and other policies have been put in place, including new trafficking offences and the creation of a UK Human Trafficking Centre. More recently in 2015 the UK Government passed new legislation in the form of the Modern Slavery Act to restructure the criminal offences linked to trafficking and to implement tougher sentencing powers and create a new post of Modern Slavery Commissioner. This will be explained in detail later in this report.

Trafficking in human beings is a serious crime which demeans the value of human life. It is a form of modern day slavery and involves the recruitment and movement of the most vulnerable men, women and children to exploit them in degrading situations for financial rewards for their traffickers.

Trafficking often takes place across international borders; but it can also happen within the United Kingdom. Victims might be foreign nationals, but can also include British Citizens. It has a devastating effect not only on the individuals trafficked but also their families who may themselves be subjected to threats or be in debt to traffickers; it causes harm to the victims and to society as a whole.

The United Kingdom (UK) is a destination country for men, women, and children primarily from Africa, Asia, and Eastern Europe who are subjected to human trafficking for the purposes of sexual slavery and forced labour, including domestic servitude. It is ranked as a "tier 1" country by the US Department of State which issues an annual report on human trafficking (The TIP Report).

The report states:

‘The Government of the United Kingdom fully complies with the minimum standards for the elimination of trafficking. Over the last year, UK authorities continued to launch aggressive anti-trafficking law enforcement efforts to uncover trafficking and identify victims’

In comparison to many countries this may be true, however this does not say that the response cannot be improved. The financial crisis in Europe has created a number of challenges in the fight against human trafficking and currently only three police forces in the UK operate full time human trafficking investigation teams.

In order to examine the response to human trafficking in the UK the reader should have an understanding of the policing structures that exist in the UK.

History of law and policing

One third of the world's population (approximately 2.3 billion people) live in common law jurisdictions or in systems mixed with civil law. Common law originated during the Middle Ages in England. As a rule of thumb, common law systems trace their history to England, while civil law

systems trace their history through the Napoleonic Code back to the Corpus Juris Civilis of Roman law.

However almost all European countries operate under the 'civil law' system. In civil law systems, individual decisions have only advisory, not binding effect. This contrast can have an impact on how law enforcement agencies operate and how cooperation can be achieved.

For example France uses the Inquisitorial system, along with the rest of continental Europe. According to this tradition, which is tied to Common Civil Law, the truth is uncovered through questioning those most familiar with the dispute by a judicial authority. It's up to an "independent" prosecutor or investigating magistrate to distinguish between reliable and unreliable evidence. He or she has two missions: to endeavour to discover facts and represent the interests of the state. To discover the facts, he or she can interview complainants, witnesses and suspects in the case's preliminary phase, steering the investigation in one way rather than another. Ultimately, he or she decides whether or not there is enough evidence to go to trial.

UK police officers are the primary investigators in criminal matters. They have extensive powers of discretion together with wide ranging powers to drive investigations forward. These include wide powers of search and seizure. They are able to arrest persons on suspicion of a crime and this is often the precursor to an investigation. This is particularly relevant as crimes can be investigated without a civilian complaint. Investigations can be mounted based upon intelligence and suspicion that crimes are occurring. In human trafficking cases police do not have to wait for a victim's complaint.

British policing is rather unique in history and throughout the world because it derived not from fear but almost exclusively from public co-operation with the police, induced by them designedly by behaviour which secures and maintains for them the approval, respect and affection of the public". This approach to policing became known as "policing by consent".

The UK legal system is one of **Common law** (also known as **case law** or **precedent**) is law developed by judges through decisions of courts and similar tribunals that decide individual cases, as opposed to statutes adopted through the legislative process or regulations issued by the executive branch.

A "common law system" is a legal system that gives great precedential weight to common law, so that consistent principles applied to similar facts yield similar outcomes. The body of past common law binds judges that make future decisions, just as any other law does, to ensure consistent treatment. In cases where the parties disagree on what the law is, a common law court looks to past precedential decisions of relevant courts. If a similar dispute has been resolved in the past, the court is usually bound to follow the reasoning used in the prior decision (this principle is known as *stare decisis*).

If, however, the court finds that the current dispute is fundamentally distinct from all previous cases (called a "matter of first impression"), judges have the authority and duty to make law by creating precedent. Thereafter, the new decision becomes precedent, and will bind future courts. *Stare decisis*, the principle that cases should be decided according to consistent principled rules so that similar facts will yield similar results, lies at the heart of all common law systems.

UK Law Enforcement

Law enforcement in the United Kingdom is organised separately in each of the legal systems of the United Kingdom: England and Wales, Northern Ireland and Scotland. Most law enforcement is carried out by police officers serving in regional police forces within one of these jurisdictions. These regional forces are complemented by UK-wide agencies, such as the National Crime Agency, and specialist bodies hosted by regional police forces, such the Specialist Operations directorate of the London Metropolitan Police.

Police officers are granted certain powers to enable them to execute their duties. Their primary duties are the protection of life and property, preservation of the peace, and prevention and detection of criminal offences. In the British model of policing, officers exercise their powers to police with the implicit consent of the public. "Policing by consent" is the phrase used to describe this. It expresses that the legitimacy of policing in the eyes of the public is based upon a general consensus of support that follows from transparency about their powers, their integrity in exercising those powers and their accountability for doing so.

There are three general types of law enforcement agency in the United Kingdom, the first mostly concerned with policing the general public and their activities and the others concerned with policing of more specific matters:

- **Territorial police forces**, which carry out the majority of policing. There are 45 territorial police forces as of 2013 that cover a police area (a particular region or city). Some territorial police forces host specialist bodies that operate in more than one area of the United Kingdom, such the Specialist Operations directorate of the Metropolitan Police¹.
- **National law enforcement bodies**, including the National Crime Agency and national police forces that have a specific, non-regional jurisdiction, such as the British Transport Police. The Serious Organised Crime and Police Act 2005 refers to these as "special police forces". The National Crime Agency operates across the United Kingdom against organised crime and acts as the UK point of contact for foreign agencies. There are also non-police law enforcement agencies whose officers, while not police constables, enforce laws.

Cross-border powers

Territorial police constables have certain powers of arrest in countries other than the one they were arrested in. There are four main provisions for them to do so – arrest with a warrant, arrest without a warrant for an offence committed in their country, arrest without a warrant for an offence committed in another country, and mutual aid.

Joint investigations

The EU acknowledges that member states have different legal systems, however it is possible to set up a JIT across the EU in accordance with the Framework Decision outlined in Box 1. The UK is a common law jurisdiction, with a permissive legal system, i.e., anything can be done unless it is specifically prohibited or regulated to be done in a certain way. The government did not think it was necessary to introduce new legislation in order to substantially implement the Framework Decision,

¹ Only 3 police forces maintain a full time human trafficking investigation unit (Metropolitan Police, West Yorkshire Police and Police Scotland). In the remainder, cases are investigated by specialist and organised crime teams that have to investigate other serious offences.

although minor legislative amendments were needed to implement some aspects. Thus in the UK, investigators and prosecutors can enter into a JIT, relying on the Framework Decision and/or the 2000 MLA Convention.

Box 1

What is a JIT?

Article 13 of the European Convention on Mutual Legal Assistance in Criminal Matters of 29 May 2000 and/or of the Council Framework Decision of 13 June 2002 on Joint Investigation Teams (JITs)² provides the legal basis of the arrangements for the conduct of JITs in EU member states. These are teams that cooperate in investigations, arrests and convictions, across more than one state.

The UK introduced provisions concerning JITs are: sections 103 and 104 of the Police Reform Act 2002, which relate to obligations in Article 2 and 3 of the Framework Decision, dealing with civil and criminal liabilities concerning members of JITs; and section 16 of the Crime (International Cooperation) Act 2003, which implemented Article 1(7) of the Framework Decision.³

The UK has ratified the 2000 MLA Convention, however it has not been directly incorporated into the law of the UK. JITs led by police officers and operating in the UK, must comply with the provisions on liabilities in Sections 103 and 104 of the *Police Reform Act 2002* and would be able to take advantage of the provisions involving dispensation with letters of request in Sections 16, 18 and 27 of the *Crime (International Co-operation) Act 2003*. Home Office Circulars 53/2002 and 26/2004 draw attention to a range of operational matters, such as the need under the Framework Decision to ensure that the team leader is provided by the competent authorities of the Member State in which the team is operating. In practice these arrangements ensure compliance with Article 1.

The further Home Office Circular 26/2004 issued on 26 April 2004 draws attention to the new legislation in Sections 16, 18 and 27 of the *Crime (International Co-operation) Act 2003*, which implements Article 1, paragraph 7 of the Framework Decision. This legislation enables police officers and customs officers who are members of a joint investigation team to apply for a search warrant and/or a production order in relation to criminal conduct abroad without a letter of request (Commission Rogatoire). The legislation for Scotland (Section 18) is similar, but not identical, to the legislation for England and Wales.

The authorities which can authorize a JIT are the investigation agencies (e.g. the Serious & Organized Crime Agency, the police and customs) and prosecution authorities (e.g. the Crown Prosecution Service, Revenue & Customs Prosecution Office and the Serious Fraud Office). It is anticipated that in most instances a decision will be made jointly by the investigation agency and the prosecution agency. HOC 53/2002 states that JITs may be established under the FD by the competent authorities in England and Wales, Scotland and Northern Ireland.

Other agencies involved in countering human trafficking are:

The National Crime Agency

The National Crime Agency (NCA) is a national law enforcement agency in the United Kingdom which replaced the Serious Organised Crime Agency. It became fully operational on 7 October 2013 and is a

² <https://www.europol.europa.eu/content/page/joint-investigation-teams-989>

³ The United Kingdom instrument of adoption was deposited on 22 September 2005 and the Convention entered into force for the United Kingdom on 21 December 2005.

non-ministerial government department. The NCA includes the Child Exploitation and Online Protection Centre as an individual command, and parts of the National Policing Improvement Agency. Some of the responsibilities of the UK Border Agency (UKBA) relating to border policing also became part of the NCA, and the UKBA is now the UK Border Force.

It is the UK's lead agency against organised crime; human trafficking, weapon and drug trafficking; cybercrime; and economic crime that goes across regional and international borders, but can be tasked to investigate any crime. The NCA has a strategic role in which it looks at the bigger picture across the UK, analysing how criminals are operating and how they can be disrupted. It is the UK point of contact for foreign agencies such as Interpol, Europol and other international law enforcement agencies. The NCA is also the national agency for the collection of data on human trafficking through the UK Human Trafficking Centre (UKHTC).

The NCA is in its infancy and faces several challenges over the next few years. The first of these is the scale of the growing problem facing them. At the end of 2014 UK law enforcement estimated there were 5,800 organised crime groups – comprising some 40,600 individuals. This is an increase of three hundred organised crime groups and 3,500 people on the year before. The NCA estimates that there are as many as 50,000 people in the UK involved in the downloading and viewing of indecent images online.

The Director General of the NCA has suggested that the British public cannot expect every person viewing indecent images to enter the criminal justice system – not least because of the sheer scale of the problem. The NCA received 12,505 referrals from the National Centre for Missing and Exploited Children (based in Washington DC) in its first 12 months, compared to 9,855 in 2012, an increase of almost 27 per cent.

The Home Office's⁴ Chief Scientific Adviser estimates that there may have been as many as 13,000 potential victims of modern slavery in the UK in 2013. Most will rely on the services of organised criminal groups at some point in their journey to the UK.⁵

The second challenge of funding and resources, links with the first challenge. Although the NCA Budget is half a billion pounds in proportion to the scale of the problem its small. The combined budget of previous agencies and units that make up the NCA was almost a billion pounds, so the agency has had an almost 50% cut before its creation. The NCA also has only 5000 staff, again small when faced with the problem.

The UK Human Trafficking Centre

The UKHTC is part of the Organised Crime Command in the NCA. It works in a coordinated way within the UK and internationally. Our work to combat human trafficking involves a wide range of partners and stakeholders. We protect the public, target the traffickers and reduce the harm caused by human trafficking.

The UKHTC's partners include police forces, the Home Office and other government departments, the UK Border Force, the Gangmasters Licensing Authority, international agencies, non-governmental organisations (NGOs) and many charitable and voluntary expert groups.

⁴ Home Office is a ministerial department of the UK Government. The Home Office leads on immigration and passports, drugs policy, crime policy and counter-terrorism and works to ensure visible, responsive and accountable policing in the UK.

⁵ https://www.rusi.org/analysis/commentary/ref:C551404452168B/#.VcDC4_kZPYh

The UKHTC is one of two 'Competent Authorities' and manages the National Referral Mechanism for the collation of data and support to victims concerning referrals from the police, local authorities and NGOs.

(The Home Office Immigration and Visas (UKVI), deals with referrals identified as part of the immigration process, for example where trafficking or modern slavery may be an issue as part of an asylum claim).

The UKHTC is a victim-focused organisation. The identification, recovery, support and, when appropriate, repatriation of human trafficking victims is at the core of everything it does.

- Working closely with partners across the public, private and voluntary sectors to support the provision of a full care, end-to-end programme for the victims of human trafficking.
- Providing expert Tactical Advisors who can offer real-time support and advice 24/7 on a variety of issues. These include tactical advice to police forces and Government agencies to support pre-planned operations, advice on the disruption and prosecution of identified offenders, and help in determining whether individuals may be trafficking victims.
- Providing a central collection point for the National Referral Mechanism data, as one of the UK's two Competent Authorities.
- Recording, tracking and analysing all NRM referrals and the resulting decisions.
- Playing an active role alongside partners in the UK Government partnership groups.

The UKHTC's work also includes supporting the victims of trafficking and bringing to justice those responsible.

Prevention activity is usually conducted in partnership with others and covers a broad range of activity.

The UKHTC works with the UK and international law enforcement agencies to pursue and prosecute those responsible for human trafficking. In doing this the centre:

- Collates, develops and shares innovative tactics, techniques, expertise and good practice.
- Develops high quality intelligence to help identify and fill knowledge gaps in the understanding of human trafficking crime.
- Draws on the wider resource afforded by being part of the National Crime Agency
- Encourages and advises on the use of relevant legislation in holding traffickers to account.
- Provides support and advice to police forces and government agencies to help identify trafficking offences and potential victims.
- Plays a full role alongside the Police, the Gangmasters Licensing Authority, UK Border Force and the Home Office Immigration and Enforcement in the UK Human Trafficking Law Enforcement forums.

UK Border Force

Border Force is a law enforcement command within the Home Office. They secure the UK border by carrying out immigration and customs controls for people and goods entering the UK.

Border Force was formed on 1 March 2012 as a law enforcement command within the Home Office. Border Force secures the border and promotes national prosperity by facilitating the legitimate movement of individuals and goods, whilst preventing those that would cause harm from entering

the UK. This is achieved through the immigration and customs checks carried out by staff at ports and airports. Ports include sea ports and the Channel tunnel.

They are responsible for:

- checking the immigration status of people arriving in and departing the UK;
- searching baggage, vehicles and cargo for illicit goods or illegal immigrants;
- patrolling the UK coastline and searching vessels;
- gathering intelligence;
- alerting the police and security services to people of interest.

Border Force officers work at 140 sea and air ports across the UK and overseas. They are a 'First Responder' for reporting human trafficking.

UK Immigration Enforcement

Immigration Enforcement was set up on 1 April 2012. It is responsible for preventing abuse, tracking immigration offenders and increasing compliance with immigration law. It works with partners such as the police to regulate migration in line with government policy, while supporting economic growth.

Immigration Enforcement staff work in the UK and overseas, including air and sea ports. They work across government and with employers, the voluntary sector and others to maximise compliance with the immigration rules.

They are a 'First Responder' for reporting human trafficking.

Gangmasters Licensing Authority (GLA)

The GLA is a non-departmental public body in the United Kingdom regulating the supply of workers to the agricultural, horticultural and shellfish industries. Employment agencies (labour providers) working in those fields have had to be licenced by the authority since 1 October 2006.

The GLA was established on 1 April 2005 by the Gangmasters (Licensing) Act 2004⁶, passed in the aftermath of the 2004 Morecambe Bay cockling disaster.⁷ The primary purpose of the authority is to prevent the exploitation of workers in the fresh produce sector.

The GLA was set up to prevent the exploitation of workers, particularly by debt bondage and forced labour and to improve health and safety standards, in what had become an unregulated area of employment.

Businesses which provide labour in the following sectors need to be licensed:

⁶ The Gangmasters (Licensing) Act 2004 (c 11) is an Act of the Parliament of the United Kingdom that regulates the agencies that place vulnerable workers in agricultural work, and the shellfish collecting and packing industries.

⁷ The Morecambe Bay cockling disaster occurred on the evening of 5 February 2004 at Morecambe Bay in North West England, when at least 21 Chinese illegal migrant laborers were drowned by an incoming tide after picking cockles off the coast.

- agriculture, including horticulture, dairy farming, the production of consumable produce (whether for profit or not), the raising of animals that will enter the food chain, and the use of land as grazing, meadow or pasture land;
- processing and packaging of products (food and drink) containing an agricultural component, any animal product that will enter the food chain, shellfish/fish products, plants/flowers/bulbs, and pet/animal feed;
- gathering shellfish.

Supporters of the authority argue it should be given more powers and resources. Some have called for an extension of the GLA's remit, citing it as an effective model of enforcement and raising standards for workers. Their work in the labour market is inextricably linked to human trafficking in the form of labour exploitation and they have been involved in a number of high profile cases since their creation. However their resources are severely limited.

In November 2010 the Joseph Rowntree Foundation (JRF) report⁸: "Between decent work and forced labour: examining the continuum of exploitation" recommended that: " Those who inspect workplaces should be empowered: Labour inspection should be extended and the mandate should include investigation and prosecution of forced labour. This should also include the extension of the remit of the Gangmasters Licensing Authority and its mandate to prosecute forced labour."

In 2011, two JRF reports: "Forced labour in Northern Ireland: exploiting vulnerability" (June 2011)⁹, and "Experiences of forced labour among Chinese migrant workers" (November 2011)¹⁰ also recommended the extension of areas under the GLA's control to improve protection against forced labour.

The Equality and Human Rights Commission's¹¹ (Scotland) (EHRC) most recent report in relation to forced labour - on trafficking in Scotland - also issued in November 2011 recommended that a strategy for Scotland should learn from the regulatory approach of the GLA.

In January 2012 the Organisation for Security and Cooperation in Europe (OSCE), report on the UK's response to combating trafficking¹² recommended that: the GLA licensing regime should be extended to cover other economic sectors vulnerable to exploitation and trafficking such as construction, domestic work/care, and hospitality; and that the GLA should be granted the power to prosecute the new offence of forced labour.

In February 2012 the JRF report "Regulation and enforcement to tackle forced labour in the UK: A systematic response?" recommended extending the GLA remit, stating that: "Such a move could have very positive impacts on how forced labour is dealt with because the GLA has created a robust system of licensing and the standards incorporate the ILO indicators on forced labour."

On 4 May 2012 the anti-trafficking monitoring group produced the second of two reports¹³, which, referring to the findings of the reports by the Equalities and Human Rights Commission (ECHR) and the OSCE suggested that the GLA should have the power to investigate forced labour offences. Like the monitoring group's first report, it also recommended that the GLA model be expanded to tackle exploitation in other sectors, citing construction, cleaning, and hospitality.

⁸ <http://www.jrf.org.uk/sites/files/jrf/forced-labour-exploitation-full.pdf>

⁹ <http://www.jrf.org.uk/sites/files/jrf/forced-labour-Northern-Ireland-full.pdf>

¹⁰ <http://www.jrf.org.uk/sites/files/jrf/Chinese-migrants-forced-labour-full.pdf>

¹¹ <http://www.equalityhumanrights.com/about-us/devolved-authorities/commission-scotland>

¹² <http://www.osce.org/cthb/87013>

¹³ www.antislavery.org/includes/documents/cm_docs/2012/a/1_atmg_all_change_prevention_smaller_2.pdf

In 2014, the subject of widening the GLA remit was again raised during the drafting phases of the Modern Slavery Act 2015 with proposals added by opposition Labour MP David Hanson who proposed an amendment that would 'enable the Gangmasters Licensing Authority to tackle modern day slavery'. The amendment would have given the Home Secretary the power to add other industries to the Gangmasters (Licensing) Act effectively providing scope to extend the GLA sector but it was voted down by the sitting coalition Government.

Further amendments were proposed as the Bill reached the House of Lords and these eventually evolved into Section 55 of the new Modern Slavery Act – a requirement that the Secretary of State review and produce a paper on the 'role of the GLA' within 12 months of enactment of the new legislation.

On the 13 October 2015 there was a new Government consultation 'Tackling Exploitation in the Labour Market'. This was welcomed by the GLA. The document was issued jointly by the Department for Business Innovation and Skills (BIS) and the UK Home Office.

It seeks the views of the public on four key proposals to build on the effectiveness of the current regime:

- to establish a statutory Director of Labour Market Enforcement, who will set priorities for the enforcement bodies across the spectrum of non-compliance, from criminally-minded exploitation to payroll errors ;
- to create a new offence of aggravated breach of labour market legislation ;
- to increase intelligence and data sharing between the existing enforcement bodies and also other bodies to strengthen the targeting of enforcement ;
- to widen the remit, strengthen the powers and change the name of the Gangmasters Licensing Authority to enable it to tackle serious exploitation.

Within the consultation is a section on 'Reforming the Gangmasters Licensing Authority', which complies with the requirement to consult and report back on the role of the authority by April 2016, as set out in the Modern Slavery Act (Section 55). As such, currently, the GLA's role and remit is under review regarding its enlargement to focus on organised crime involvement in other sectors of labour supply and that this may take in more industries that are currently monitored by the agency.

Prosecution Agency – The Crown Prosecution Service

The Crown Prosecution Service (CPS) is the principal prosecuting authority for England and Wales, acting independently in criminal cases investigated by the police and others.

The CPS:

- decides which cases should be prosecuted – keeping them all under continuous review;
- determines the appropriate charges in more serious or complex cases – advising the police during the early stages of investigations;
- prepares cases and presents them at court - using a range of in-house advocates, self-employed advocates or agents in court; and
- provides information, assistance and support to victims and prosecution witnesses.

The CPS was established in 1986, under the Prosecution of Offences Act 1985, and the way in which it undertakes its role is governed by two key documents:

- Code for Crown Prosecutors¹⁴;
- Casework Quality Standards (CQS)¹⁵.

The Director of Public Prosecutions (DPP) is the head of the CPS and operates independently, under the superintendence of the Attorney General. As a government minister, the Attorney is accountable to Parliament for the work of the CPS.

- The CPS consists of: 13 geographical Areas across England and Wales; three Casework Divisions; our CPS Direct service, our CPS Proceeds of Crime service and a Headquarters.
- A Chief Crown Prosecutor (CCP) leads each Area and is responsible for the provision of a high quality prosecution service. Deputy Chief Crown Prosecutors (DCCP) and Area Business Managers (ABM) assist the CCPs.
- The four specialist casework divisions are: the Specialist Fraud Division (which also incorporates Welfare Rural & Health), the Special Crime & Counter Terrorism Division and the Organised Crime Division. They deal with challenging cases that require specialist experience, including the prosecution of cases investigated amongst others by:
 - National Crime Agency,
 - UK Border Agency,
 - Her Majesty's Revenue and Customs,
 - Department for Work and Pensions.

The CPS has a documented guide on prosecutions for human trafficking offences. This makes for useful reading. It outlines how the CPS deals with human trafficking matters and cases. However it pre dates the EC Directive 36 of 2011 and the description of forced labour does not include pickpocketing, theft and begging as forms of forced labour.

The document states:

“This document provides a clear statement about the role of the CPS and how we make decisions in prosecutions , from deciding whether to charge someone with a criminal offence and what that charge or charges should be.

It explains how we work with the police and other investigators in case building and our role in supporting and protecting victims and witnesses through the process.”¹⁶

Within the introduction is an interesting statement that the author fully supports in respect to the lack of recognition of cases of child trafficking and trafficking for forced labour and domestic servitude:

“However, it is acknowledged that whilst there is an over-representation of sexually exploited women, it remains likely that labour exploitation and male victims are relatively under-detected; male victims are less likely to report their trafficking and exploitation. Boys and young men are also equally at risk of sexual exploitation.”¹⁷

On the negative side there has been severe criticism of the CPS in relation to cases of human trafficking. It is alleged that justice can be decided on cost, this being that the cost of a trial is expensive and that there is a prevalence for the CPS to avoid costly trials by accepting pleas of guilty for lesser charges or for pursuing lesser or ‘alternative’ charges in order to obtain a plea of guilty.

¹⁴ http://www.cps.gov.uk/publications/code_for_crown_prosecutors/index.html

¹⁵ http://www.cps.gov.uk/publications/casework_quality_standards/index.html

¹⁶ http://www.cps.gov.uk/publications/docs/policy_for_prosecuting_cases_of_human_trafficking.pdf

¹⁷ Ibid.

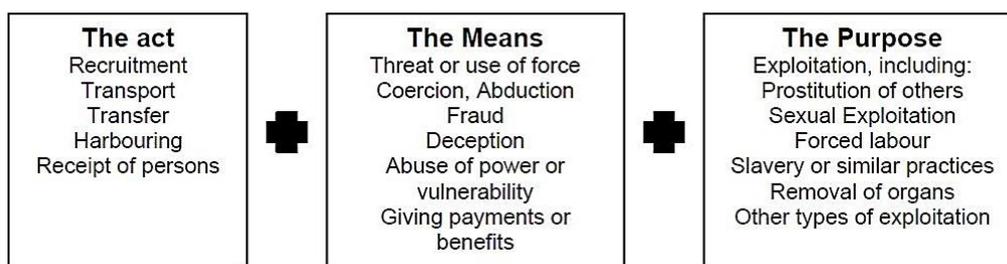
The UK Approach to countering THB

The UK has fully adopted the UN ‘Palermo Protocol’ definition of human trafficking (see Annex). In combination with the legal definition in the 2015 Modern Slavery Act, the UK Human Trafficking Centre (UKHTC), part of the Organised Crime Command in the National Crime Agency, gives the following definition that is a reference for UK actors:

Human trafficking is the movement of a person from one place to another into conditions of exploitation, using deception, coercion, the abuse of power or the abuse of someone’s vulnerability. It is possible to be a victim of trafficking even if your consent has been given to being moved. Although human trafficking often involves an international cross-border element, it is also possible to be a victim of human trafficking within your own country.

Thus, UK law enforcement are guided by this interpretation of principles:

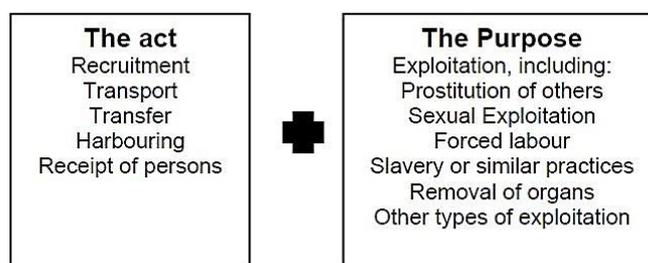
- The movement – recruitment, transportation, transfer, harbouring or receipt of people
- The control – threat, use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or the giving of payments or benefits to a person in control of the victim
- The purpose – exploitation of a person, which includes prostitution and other sexual exploitation, forced labour, slavery or similar practices, and the removal of organs



= TRAFFICKING

Children

Children cannot give consent to being moved, therefore the coercion or deception elements do not have to be present.¹⁸



= CHILD TRAFFICKING

¹⁸ National Crime Agency website, *Human Trafficking*

UK Statistical Data

Statistics can work for or against the fight against THB. The National Referral Mechanism (NRM) is a framework for identifying potential victims of human trafficking and ensuring they receive the appropriate protection and support. The NRM is also the mechanism through which the UKHTC collects data about victims.

This information contributes to building a clearer picture about the scope of human trafficking in the UK. However, when you compare NRM referrals, they are miniscule, compared to crimes reported, that may involve THB. For example, the 300,000 crimes of shoplifting recorded in the UK each year will include crimes committed by victims of trafficking. However, there are few resources devoted to countering shoplifting and the police involved are not trained nor have the capability to identify potential victims. It is accepted in the UK that there is significant underreporting into the NRM. Whilst training of front line police officers continues, it does so at a very slow rate and more importantly, over 50% of crimes of shoplifting are still not reported to the police and store security staff receives no training on THB.

The NRM was introduced in 2009 to meet the UK's obligations under the Council of European Convention on Action against Trafficking in Human Beings. At the core of every country's NRM is the process of locating and identifying "potential victims of trafficking" (PVoT).

The NRM grants a minimum 45-day reflection and recovery period for victims of human trafficking. Trained case owners decide whether individuals referred to them should be considered to be victims of trafficking according to the definition in the Council of Europe Convention.

In 2014 the NRM received 2,340 referrals of potential victims of trafficking (PVoT); this represents a 34% increase on 2013 referral totals. The PVoTs were reported to be from 96 countries of origin; this represents a 14% decrease on 2013 country of origin totals

- The most common exploitation type recorded for potential victims exploited as an adult was sexual exploitation;
- The most prominent exploitation type recorded for potential victims first exploited as a minor, where known, was labour trafficking;
- Potential victims originating from Albania represented 19% of all referrals to the NRM in 2014.

The 2,340 referrals were comprised of 1,432 females (61%) and 906 males (39%) and 2 (<1%) recorded as transgender. 1,669 (71%) were referred for adult exploitation categories and 671 (29%) referred for exploitation as a minor.

First Responders

A first responder is a member of one of the agencies or organisations listed below. He/she is a person who may come into contact with a potential victim and who should complete the NRM process. The first responder will complete a referral form to pass the case to the competent authority (CA). Referral to a CA is voluntary and can happen only if the potential victim gives their permission by signing the referral form. In the case of children their consent is not required.

Organisations that are likely to have first responders and who have the ability to make NRM referrals are:

- NCA
- Police forces
- UK Border Force
- Home Office Immigration and Visas
- Gangmasters Licensing Authority
- Local Authorities
- Health and Social Care Trusts (Northern Ireland)
- Salvation Army (NGO)
- Poppy Project (NGO)
- Migrant Help (NGO)
- Medaille Trust (NGO)
- Kalayaan (NGO)
- Barnardos (NGO)
- Unseen (NGO)
- TARA Project ((NGO)Scotland)
- NSPCC (CTAC) (NGO)
- BAWSO (NGO)
- New Pathways (NGO)
- Refugee Council (NGO)

NRM Data on referrals by First Responders

• Immigration Enforcement	937
• UK Border Force	86
• GLA	5
• NCA	6
• Local Authorities	172
• NGOs	408
• Police forces	726
Total	2,340

Police Forces with Human Trafficking Investigation Teams

- West Yorkshire Police 122
- Metropolitan Police 103
- Police Scotland 48

Highest Police Forces without THB teams

- West Midlands Police 37
- Greater Manchester Police 30
- PSNI 36
- Kent 27
- Thames Valley Police 23

Within the police, it is clear that police forces with human trafficking investigation units are more proactive or more successful in identifying victims of human trafficking. This should send a strong

message to Government and police force management for the need to create specialist teams of officers if we are to make inroads into the problem.

Merseyside Police, a force with over 4,000 police officers only made 3 NRM referrals in 2014. This force includes the city of Liverpool which has one of the largest ports in the country. It would be surprising if human trafficking did not exist in the second largest populated area in the UK.

Child trafficking

Child trafficking is the recruitment and movement of children for the purpose of exploitation. As already stated, technically there is no need to prove force or coercion as a child cannot consent to their own exploitation.

This does not say that the use of force, fear or coercion is not present in child trafficking cases, it often is. In the UK investigation "Operation Golf", two adults¹⁹ were arrested for trafficking their own 5 children and a 13 year old 'slave' girl. Three of the youngest children were found to have cigarette or cigar burns on their bodies. It was thought that they were burned as punishment for noncompliance with instructions. The children were used as begging tools and to commit low level crime. It is a serious form of child abuse which causes significant harm to its victims.

Child victims are vulnerable to a very high level of physical, emotional and sexual abuse and neglect while being trafficked.

The hidden nature of child trafficking makes it difficult to identify its true extent. Both UK NSPCC Child Trafficking Advice Centre²⁰ (CTAC) and NRM data depends on a referral being made by a professional with concerns about a child.

However, not all cases of identified trafficking will be referred, and even if a referral has been made the trafficking indicators may not always be clear. Some victims will not be identified in the first place. This means that these data sources do not necessarily reflect the full scale of child trafficking in the UK. Understanding trends in numbers of victims also poses problems. Increases in referrals may not indicate an increase in children being trafficked, but rather an increase in the numbers being identified.

The referrals and subsequent data sets are relatively small and one new investigation can dramatically affect the overall statistics. This was the case of Operation Golf which was led by the authors from 2007 to 2010. The case involved the trafficking of Romanian Roma children for forced labour in the form of begging and stealing.

The referral of Romanian children to the NRM in this case changed the statistics dramatically with Romanian nationals moving up the NRM nationality data. However when the investigation closed in 2010, the following year Romania dropped down the statistics tables.

CTAC data is available for the UK as a whole, for the past six years. The UK Human Trafficking Centre (UKHTC) has published annual assessments of the nature and scale of human trafficking, including child trafficking, in the UK for the last four years. Data back to 2009 is also available from the NRM,

¹⁹ R V Georgie and Speranta MIHAI July 2010 Reading Crown Court, UK.

²⁰ The National Society for the Prevention of Cruelty to Children (NSPCC) is a charity campaigning and working in child protection in [England](#), [Wales](#), [Northern Ireland](#) and the [Channel Islands](#). The Child Trafficking Advice Centre (CTAC) provides free guidance and training to professionals concerned that a child or young person has been or is about to be trafficked into or out of the UK.

but is not available broken down by individual year, making it hard to draw out trends. The Child Exploitation and Online Protection Centre (CEOP) produced estimates of the number of potential child trafficking victims from March 2005 to September 2011. However there have been no further updates, and different time periods and methodologies were used over this time preventing trend analysis. This makes it difficult for the public or interested parties to get a picture of national trends due to the complexity of the data. Because of these limitations, the UKHTC figures are the most commonly referred to data, which is released on a quarterly basis by the UKHTC.

Case Study

Operation Golf - A UK and Romania Joint Investigation Tackling Romanian Organised Crime and Child Trafficking

Summary

Operation Golf (October 2004 to July 2006) was a Joint Investigation between the Metropolitan Police Service (MPS) and the Romanian National Police targeting a specific Romanian Roma organised crime network (OCN) that are trafficking and exploiting children from the Romanian Roma community. This community is one of the poorest and most disadvantaged communities in Europe.

This OCN has increased its activity since accession of Romania to the EU and the OCN is now trafficking entire families for forced criminality and benefit crime.

The MPS operation was commissioned by Commander Steve Allen following a 786% increase in Romanian arrests in the first 3 months of 2007 across the MPS.

Background

The OCNs concerned are involved in the large scale trafficking of children and adults who are forced into criminality to pay off debts bearing extortionate interest rates. OCNs abuse cultural rules whereby if a person defaults on a debt they become the slave of the debtor, as do the belongings and property. This includes the family of the defaulter. At this time, the gang charged Roma families £1,000 per child for them to be trafficked.

The way the traffickers operate is by approaching a poor family. The offer to take a child abroad for 'work' begging and stealing. There is a charge placed on this action. As the target family have no money and are struggling to feed their large families, they are forced to borrow money from the gang. This places the family into debt to the gang. The family are then under gang control. The families are vulnerable due to their position in society, poverty and lack of education.

In the summer of 2004 Chief Inspector Bernie Gravett and Inspector Colin Carswell both officers from Westminster Police in central London, identified that Romanian Roma groups in central London were committing a considerable volume of level 1²¹ crime. The offences were being committed by children and young persons and included begging, shoplifting, distraction theft, deception, fraud, credit card cloning and robbery. Children as young as 6 years old were stealing handbags and mobile phones from coffee shop customers.

Intelligence checks revealed that the families of the children had 'irregular' status in the UK at this time having been smuggled into the country in cars and lorries by the OCN.

This led to an operation conducted in cooperation with the UK Immigration Service and the removal from the UK of 407 individuals concerned in these crimes.

As a result, theft offences in Westminster were reduced by 29% and pick pocketing was reduced by 24%. All recorded crime in Westminster dropped by 2%.

²¹ Level 1 crime is low level crime that occurs in large volume.

Box 2

CASE STUDY: Girl A DOB: 01/01/1986 - 24 years old at time of reporting

Girl A is one of 1087 children taken from the Romanian town of Tandarei pre accession. She was driven out of Romania by the gang along with 5 other children. Her journey took her into Hungary and across Europe. She first came to notice in the UK in 2002 when she was 16 years old. She was arrested for theft within Westminster Borough in London. She received a juvenile reprimand for this offence. Subsequently she has acquired a total of 17 convictions and 3 cautions, with offences of shoplifting, distraction thefts and failing to answer court bail. She was arrested a further 6 times but the offences were not proceeded with. She has served a prison sentence in Holloway women's prison.

She had total of 8 alias names and 9 dates of birth. There are 43 intelligence reports on her in London. She has been arrested predominately in Westminster but also Enfield, Camden, Hammersmith and Kensington. She is also known to commit offences in Surrey, City of London and within the area covered by BTP.

In 2006 she was moved by the gang to Spain but returned to the UK in 2007 following accession of Romania into the EU.

She had numerous associates all of whom had convictions on Police National Computer and are well known to Police within London. At the time of reporting she lived in poverty gaining no benefit from her criminality.

A significant amount of learning and intelligence was gained through this operation and it was identified that Romanian Roma Organised Crime Networks were behind these crimes and that they were using children as tools to commit the offences. An outcome of this was that CI Gravett was seconded to the Foreign and Commonwealth Office and travelled to Romania to assist the Romanian National Police in capacity building in preparation for entry into the European Union. At the same time Inspector Carswell joined SCD6 International Crime Coordination Unit with specific responsibility for Romania and other Balkan states and the related threats posed to London.

The first indication of trafficking

During this period the officers became aware of Operation 'Girder'. This was an operation executed by the Serious Organised Crime Agency (SOCA) where it had been identified that a Romanian OCN had trafficked 21 children into the UK for the purposes of committing low level minor crimes. This operation led to 8 adults convicted for illegal facilitation of children into the UK. Only 3 of the children were identified and recovered.

The gangs used a Czech Roma woman, Ana PUZOVA to bring the children to the UK. At this time Czech passports only listed the children of the family but there were no photos. Immigration intelligence identified that PUZOVA was making trips into the UK with children but then left the UK alone. She was stopped entering the UK with three children passing them off as her own. When questioned it was identified that the children were Romanian Roma from Tandarei, Romania.

Box 3

Ana PUZOVA is a Czech national with 8 natural children of her own. The link was that she is Roma. She was paid £1,000 per trip. The children were taken to Italy and Spain by the gang and from there flown with Ana into Stanstead & Luton airports. The children were then passed back to the gang and distributed across the UK.

Puzova, who was pregnant with her ninth child at the time of her arrest, had come to police attention two months earlier after flying into Luton from Barcelona with two children. Further investigations revealed a pattern of frequent travel between British airports and destinations in Spain and Italy.

She pleaded guilty at Chelmsford Crown Court in 2006 to six charges of facilitating the unlawful entry of children into Britain and was jailed for three years.

The gang's leader for this part of their operations was identified as Remus KVEC. While KVEC was based in the north west of England, there were links to addresses belonging to him in London, which shows the large geographic scale of his operations in the UK. He was sentenced to 8 years imprisonment for running the trafficking ring. However this was the tip of the iceberg.

Operation Girder led the Romanian National Police (RNP) to open an investigation into the Romanian OCN involved, this was called Operation EUROPA. This identified that the OCN had trafficked 1087 identified children out of Romania. The evidence is that the majority of these children have been, or are being exploited by being made to beg and commit theft in a number of European countries. The OCN and children all originate from the single town of Tandarei in South East Romania. Both the victims and the OCN are from within the Romanian Roma community.

The RNP investigation identified the trafficking routes and methods used and that the OCN were operating across Europe with strong links in the UK, Italy, Spain and France. However their challenge was that the exploitation was taking place outside Romania and what they saw were the gangs getting richer on the proceeds.

In January 2007 Romania joined the EU. Within 3 months, crime in London committed by Romanian nationals went up 786%²². Analysis showed the offences to be predominantly theft committed by children from within the Romanian Roma community. The Borough of Westminster was particularly affected by this rise in crime. This growth was caused by the gangs moving people into the UK from Spain and Italy, now much easier as the border checks were reduced.

In April 2007, Commander Steve Allen, BOCU Commander for Westminster, commissioned a small team, led by Superintendent Gravett and Chief Inspector Carswell to examine the causes behind the rise in crime and the links to Organised Crime. This was again given the name 'Operation Golf', as it was already known that this was the same OCN as the children originated from the town of Tandarei.

Research on criminal records showed that 200 of the 1087 victims identified by the RNP were criminally active in London in the summer of 2007 and also they had convictions in 32 other Police Force areas. To test the finding of the research, the UK team set up Operation Caddy. This focussed

²² PIB Nationality Index reports 2007.

on the town of Slough to the west of London. The team found that each day, up to 50 Romanian Roma would travel by train to central London. From here they would split up and move across London committing crime focussing their activity on crowded places.

On the 28th January the team executed search warrants at 16 addresses in Slough. This resulted in the arrest of 34 people for a variety of crimes with over 200 items of stolen property recovered.

The most important aspect was that within the 16 small terraced 3 bedroom houses, police found 211 people, the majority of which were children. 10 children were recovered when it was found that their parents were not present.

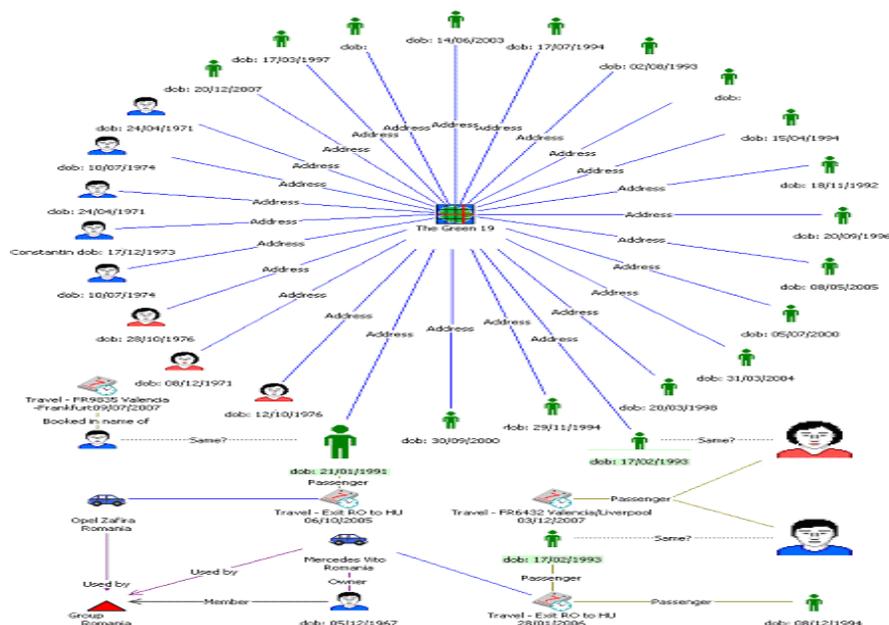
Some houses were occupied by 3 families with children sleeping on the floor on sheets and in one case a child had her bed in the bath. Each house was in squalor with little or no food present. The operation was conducted with the support of local social services. The team was shocked to discover that local social services had no knowledge of 60 children under the age of 10. Only 3 children were attending school and these were the sons of the gang leader in the town. No girls were in education.

The arrests were for:

- Trafficking children into the UK
- Trafficking children around the UK
- Child neglect
- Theft
- Handling stolen goods
- Money laundering
- Benefit fraud
- Being wanted for failing to appear at court

In addition there were substantial cash seizures and a large amount of documentation found.

Below is an example of one house with three families but also 3 unaccompanied minors.



Box 4**Operation Caddy analysis**

16 addresses 211 people encountered
103 adults 60% with criminal records
33 Juveniles 78% criminal records
74 minors (u10) 47% on MPS intelligence for committing crime in London
Prevalence in under age pregnancy some as young as 13 years old
Only 3 children in education
60 minors not known to Slough Borough Council
54% reduction in pick pocket offences in Westminster for the following 6 months

The 10 children were treated as potential victims of trafficking were placed into emergency police protection and were passed into the care of social services.

The days following the operation saw the parents of these children arriving from Romania, Italy and Spain with a variety of accounts as to how their children were left with families that exploit children. 9 of the children were returned to their parents with care procedures placed around them. However this has to be classed as a failure as none returned to Social Services and intelligence suggested that they were removed from the UK. However, the investigation had a breakthrough.

One child spoke out!

Eva STANCIU was a 13 year old girl from Tandarei. According to Romanian border records both Eva and her sister were taken from Romania to the UK by the gang. The investigation revealed that her father Iuri paid the gang 200 EUR to have Eva trafficked to another country. Eva was driven into Hungary but later flown into the UK from Spain. She used her own Romanian identity card to travel, however the flights were paid for by the gang using a compromised USA owned credit card. She was accompanied on her flight by a man called Busoic VASILE and he guided her through passport control.

Eva was placed with a family in Slough and exploited. She was told to call her exploiters Uncle and Aunt, who were actually Claudia STOICA and Marin VASILE. Eva became the family slave looking after the babies and children, but also 5 days a week she was driven 40 miles to another town where she was made to sell the 'Big Issue', a charity magazine.

She wasn't allowed to keep anything, and was beaten and searched at the end of the day. Her diet was poor and consisted mainly of potatoes. When out selling the magazine, witnesses described her as hungry looking and poorly clothed. One witness, a shop keeper, actually fed her. This was all solid evidence to link to her exploitation.

Her sister has never been found and it is assumed that she is also being exploited but has been given an alias to prevent discovery and recovery.

Eva initially gave a true account of her treatment and abuse. However following the arrest of her father for trafficking her and telephone contact with her mother back in Romania, she retracted her story. This could have potentially had a serious impact at the trial but the diligent recording and gathering of evidence allowed police to 'prove' her first account.

The investigation also discovered that her father Iuri STANCIU was trafficking children in Valencia, Spain. He was recorded as collecting different children arrested for begging and theft and using his own daughter's real birth certificate when collecting them from social services.

This led to the first convictions in the UK for the trafficking of a child into the UK for forced criminal exploitation. In addition the suspects were convicted of trafficking Eva 'internally' around the UK for forced labour.

This investigation highlighted the complicity of parents in the trafficking of their own children. While debt slavery is one aspect of how the gang controls the families, greed also plays a part.

In addition to the criminal prosecution there was a parallel care case running concerning Maria's welfare. This was taken to the High Court with the outcome being that UK courts have to rely on Brussels II decision (see box 5) that a child must be returned to their country of origin for the authorities to manage her welfare there. Subsequently Maria was repatriated to Romania and she passed into the care of Romanian Social Services. She was later reunited with her mother. While she has not been re-trafficked, she has now been sold into marriage and is pregnant at age 14.

Box 5

Brussels II - Jurisdiction in relation to parental responsibility

Article 66 applies in children's cases. This is the article that relates to member states where there are two or more systems of law. Any reference to habitual residence in the member state "shall refer to habitual residence in a territorial unit". This implies that jurisdiction lies with the courts of the territorial unit in which the child is habitually resident. Such an interpretation would be consistent with the provisions relating to divorce. In this view, Brussels II governs the distribution of cases within the United Kingdom, as well as distribution between EU member states.

As a victim of trafficking who had only been in the UK for a few months the court decided that Maria was 'habitually resident' in Romania and that Romania had jurisdiction in matters of her welfare. This applied despite police presenting a case that she would be at risk of retribution, harm and further exploitation.

The court's decision was that it had to abide by Brussels II and Maria's safety and welfare was a matter for Romania. She was repatriated against the wishes of the police.

This operation was unprecedented in identifying the sustained demands made on the Police and partner agencies who regularly encounter the victims through arrests and street engagement across the MPS. The operation was extremely successful and active in thwarting this OCN that operated across the EU.

1st September 2008, the formation of the JIT

A Joint Investigation Team (JIT – see Box 1), was formed due to the international nature of the OCN and the fact that the crime and exploitation was occurring in the UK but the profits were being realised in Romania. This was the first EU JIT tackling human trafficking and was a cooperation between the Metropolitan Police Service (MPS) and the Romanian National Police. The full JIT partnership is Operation Golf (MPS), Romanian National Police, D.I.I.C.O.T. (Romanian Prosecutors Office), the United Kingdom Human Trafficking Centre (UKHTC), Crown prosecution Service, Europol

and Eurojust. In addition the team were the first UK police force to set up and conduct a JIT with another EU state.

JITs are resource intensive however, and one reason they are not so prevalent, is because of the need for extra resources. This JIT was 70% funded by a grant obtained from the European Commission. The MPS Territorial Policing Command covers the remaining salary costs of the MPS staff on the team.

The strategic objectives of the JIT were to successfully:

- Investigate & prosecute OCN members both in the UK and Romania
- Disrupt their activities
- Identify, restrain and confiscate criminal assets
- Reduce criminality
- Minimise the exploitation of victims
- Improve victim identification and response to child trafficking by police and partners.

Arrests & prosecutions

The following is a précis of information relating to all arrests of individuals of interest to Operation Golf, both known members of the OCN or their associates.

Since the inception of the JIT there have been a total of **120** persons arrested in the UK linked to the OCN. This includes the first ever convictions in the UK for trafficking a child into the UK and only the second convictions for internal trafficking within the UK.

A summary of arrest & prosecution activity is as follows:

- Human Trafficking Sec 4(1) Immigration Act (Into UK)
- Human Trafficking Sec 4(2) Immigration Act (Within the UK)
- Money laundering
- Obtaining Benefit by Deception Sec 106 Immigration Act
- Forgery & Theft Act offences
- Conspiracy to defraud
- Possession of false documents
- Obtaining State Benefit by Deception Sec 106 Immigration Act

Support to Romanian Investigation

The UK Operation Golf team supplied the Romanian Team with a full and extensive evidential package to prove the exploitation of the children and families in the UK. This has included, in an evidential format, the following:

- Full list of criminal convictions and circumstances for the 168 children identified as being active in the UK
- Full details, including statements, of all contact by Police with the 168 children and families (stops, verbal warnings, intelligence reports, etc)
- Evidential product and statements surrounding money transfers via MSB's UK-Romania for the principle suspects.
- Evidenced details of all appropriate adults appearing for the children who have been arrested for crime in London.

This substantial piece of work directly resulted in the Romanian authorities to arrest and charge Romanian nationals, all part of the gang, with trafficking children to the UK.

Box 6

Operation Longship a test of the JIT framework

A significant problem for Romania is that the exploited children are in other jurisdictions. Because of the JIT we were able to deal with this issue by flying the Romanian investigation team to the UK for Operation Longship. The UK team identified and recovered 27 children and provided them to the Romanian team for a 'Witness Hearing' under Romanian law on UK soil. A challenge for the team was that in Romania child witness must be represented by a Romanian lawyer. To deal with this the Romanian party included 4 independent Romanian lawyers to oversee the process and ensure the children's rights were upheld. This was the first such action of its kind in JIT history.

Romanian "Operation EUROPA" arrest phase

The first phase of the Romanian arrest operation took place on the 8th April 2010. This involved the execution of search warrants at 34 addresses in Tandarei and the arrest of 26 persons for trafficking and money laundering.

The Romanian operation was supported by 26 members of the Metropolitan Police whose roles included command, intelligence and 11 investigation teams to accompany RNP officers on the searches. Under the JIT agreement the Metropolitan Officers were able to use their UK powers on Romanian soil. They were allowed to search for evidence and question suspects as part of the UK investigation.

This was the first time this had occurred in EU history and was a significant step in extending powers to combat international organised crime.

In addition to the arrests the Romanian authorities seized 4 AK47 rifles, 12 hunting rifles, 12 shotguns including military grade weapons and 6 semi-automatic handguns. Other seized items included 25,000 Euros, £25,000 and 40,000 Romanian Lei, 13 high value cars, 6 houses and a substantial amount of evidence linking the gang to the UK and other EU countries. One remarkable find was 10.5 kilos of gold which is worth approximately €500,000. The proceeds of crime in the UK are often converted into cash and then into gold for couriers to take back to Romania. Gold is easy to conceal and the story given is often that it was old family jewellery melted down. This is hard to challenge by the authorities.

The Romanian authorities have charged 26 gang members with the following crimes²³:

- Trafficking 181 children to the UK for forced criminality
- Money laundering
- Being members of an organised criminal network
- Firearms offences.

²³ They were still awaiting trial in 2014.

Strategic achievements of the operation

- Primary in the setup of the Home Office inter agency working party on trafficking of children
- Advising the 'London Child Safety Board' and writing contributions to their 'Toolkit for identifying trafficked children'.
- Achieving the first UK conviction of THB of a child
- Achieving the second conviction of an offence in the UK of 'internal trafficking'
- Providing written evidence to Lady Butler-Sloss (member of the UK 'All Parliamentary Committee on THB') that has been passed to the Attorney General (unedited) raising the issue of lack of sentencing guidelines to Judges in THB cases not linked to sexual exploitation
- Advising UKHTC and SOCA (Knowledge²⁴) on Roma organised crime
- Advising NPIA and contributing to the revised ACPO 'Child Abuse Manual' and revised 'Guidance for International Investigations'

Operation Golf concluded on the 31st December 2010, however officers of the Metropolitan Police Financial Investigation Unit continue to identify and seize criminal assets from the Tandarei gangs. In 2013 they sent 24 International Letters of Request to the Romanian authorities to trace and seize criminal assets from the Tandarei gang.

Sexual Exploitation

One of the challenges with the area of trafficking for sexual exploitation is the lack of confirmed data concerning the nature of prostitutes and their conditions in the UK.

Prostitution is legal in the UK but in a limited form. In the UK there are no criminal offences committed by a woman who acts as a prostitute. The criminal acts are around public nuisance offences and the control of prostitutes and prostitution.

In brief, a woman can offer and sell sexual services in a private building if she operates on her own. Offences occur if a 'premises' is used by more than one woman to offer sexual services. Such a premises is then termed to be a brothel. In the case of a brothel, the criminal offences are committed by persons managing the brothel or controlling prostitution. In this manner the UK seeks to punish those that could exploit women or cause nuisance to others living in the area.

Street prostitution is illegal and a woman commits an offence of soliciting for prostitution or offering sexual services in a public place. This is to prevent nuisance for both residents, workers and innocent women from being molested by those that use the services of prostitutes. Those that control on street prostitution commit offences of 'controlling prostitutes', these are commonly referred to as 'pimps'²⁵.

²⁴ At the time of the operation SOCA were divided into a range of departments. SOCA Knowledge was the analysis and intelligence unit.

²⁵ Original origin 16th Century a pimp was a man who dressed elegantly (Middle French). In around 1800 in London the term was used for 'a male procurer'. The Oxford Dictionary definition is a man who controls prostitutes and arranges clients for them, taking a percentage of their earnings in return.

In preparation for the Modern Slavery Act 2015, the UK Government reviewed the accepted data on prostitution.

During 2008 and 2009, the Home Affairs Committee conducted an inquiry into human trafficking in the UK. Its report, published in May 2009, highlighted the lack of accurate statistical information and estimated that there are at least 5,000 trafficking victims in the UK.²⁶

In August 2010, the Association of Chief Police Officers (ACPO) published a report that suggested that 17,000 of the estimated 30,000 women involved in off-street prostitution in England and Wales were migrants. Of these women, 2,600 were deemed to have been trafficked and a further 9,200 were deemed vulnerable migrants who might be further victims of trafficking. Most of those trafficked (2,200) were from Asia, primarily China.²⁷ However, some organisations, for example Amnesty International and the womens' charity Eaves, have argued that this figure is an underestimate, possibly due to an "overly prescriptive" definition of trafficking. The Government then used the NRM statistics.

The *Second Report of the Inter-Departmental Ministerial Group on Human Trafficking*, published in October 2013, gave the following summary of the group's assessment of the scale of the problem of human trafficking in the UK:

"In 2012, 1,186 potential victims of human trafficking were referred to the National Referral Mechanism (NRM), a 25% increase on the number of referrals in 2011. Of these, 786 were females and 400 were males; 815 were adults and 371 were children. The source countries for the greatest number of potential victims referred into the NRM were Nigeria, Vietnam, Albania, Romania and China. Amongst adult referrals, sexual exploitation remained the most common form of abuse identified through the NRM, although reporting of labour trafficking and other forms of criminal exploitation continued to rise. For child victims, both sexual exploitation and forced labour featured prominently. The UK Human Trafficking Centre (UKHTC) Strategic Assessment for 2012 estimated that there are up to 2,255 possible victims of human trafficking in the UK."²⁸

It is the view of this author that the data is flawed. In this statement there is a conflict.

Firstly many people are aware that there is trafficking in the sex industry, for both police and public alike. In addition there are many NGOs who specifically focus on protecting women in the sex industry. As prostitution is extensive in the UK, it should be expected that the data reflects this greater awareness and coverage and that the majority of victims that are discovered are engaged in the sex industry.

However domestic workers are often kept in private households. Their life is one of secrecy and exclusion from the general public and police. It is estimated that about 15,000 domestic workers accompany foreign employers to the UK each year. This is in addition to those who are brought in illegally (trafficked) or who are employed once they have entered the UK. There is a significant chance that these cases are severely under reported.

In cases of trafficking for forced labour there are now two separate elements that need to be considered. These are the separate situations of trafficking for traditional labour exploitation and trafficking for forced criminality.

²⁶ Home Affairs Committee, *The Trade in Human Beings: Human Trafficking in the UK*, 6 May 2009, HC23-I 2008-09, para 28

²⁷ ACPO, *Setting the Record*, August 2010.

²⁸ *Second report of the Inter-Departmental Ministerial Group on Human Trafficking*, Cm 8731, October 2013,p7.

Generally it is accepted that a range of government agencies actively examine the labour sector. Leaders in this field are the Gang Masters Licensing Authority which was referred to earlier in this report. They examined registered businesses for breaches of labour rules and seek out human trafficking where exploitation occurs. However it should be noted that in 2014 they only submitted 5 NRM referrals. This is an extremely low figure.

Trafficking for forced criminality was only discovered by Operation Golf (2007 – 2010) and this subsequently led to the recognition that people are trafficked to steal and beg by the EU in the DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011. However very little is known about this form of trafficking. It does not feature in most human trafficking training including that provided to UK police officers by the NPIA²⁹. Referrals to the NRM rely on first responders encountering potential victims in the first instance.

The laws on prostitution and brothels are rarely enforced. Successive governments have directed that police focus on serious crimes. Few police forces have 'vice units' or officers who monitor and manage brothels, therefore the chances of police discovering potential victims is small. Police across the EU are over reliant on 'self-presentation'. This is where a victim comes forward and declares that they are trafficked or gives details that would lead an officer (if trained) to suspect that they are trafficked.

The total number of prostitutes is not known and is difficult to assess, but authorities and NGOs estimate that approximately 100,000 persons in the country are engaged in prostitution.³⁰ According to data from the Office for National Statistics, prostitution contributed £5.3 billion to the UK economy in 2009.

The sex trade takes different forms, such as prostitution practiced in massage parlours, saunas, private flats, street prostitution and escort prostitution. The size of brothels in the UK is often small; it is believed that most brothels are discreetly run by two or three women, sometimes with a receptionist, or one woman, usually an ex-sex worker employed to meet and greet customers and collect the money for those in charge of the brothel. By 2015 approximately 70% of sex workers are believed to be indoor workers.

According to a 2009 study by TAMPEP³¹, of all prostitutes in the UK, 41% were foreigners - however in London this percentage was 80%. The total number of migrant prostitutes was significantly lower than in other Western countries (such as Spain and Italy where the percentage of all migrant prostitutes was 90%). The migrant prostitutes came from Central Europe 43%, Baltics 10%, Eastern Europe 7%, Balkans 4%, other EU countries 16%, Latin America 10%, Asia, 7%, Africa 2%, and North America 1%. 35 different countries of origin were identified.

With the examples above it is difficult to see that there is not an extensive level of human trafficking in the UK sex industry. It is simply that dealing with organised prostitution is not a priority for police and that police are insufficiently trained and equipped to delve into the industry with purpose.

²⁹ National Police Improvement Agency NCALT Managed Learning Environment online THB package. Does not include the EC directive. This course has been taken by only 2600 of the UK's 140,000 police officers.

³⁰ "2009 Human Rights Report: United Kingdom". State.gov. 2010-03-11. Retrieved 2013-02-10.

³¹ TAMPEP (European Network for HIV/STI Prevention and Health Promotion among Migrant Sex Workers) is an international organization that supports the health and human rights of migrant sex workers in Europe.

Improvements in legislation

Until 2002 there were no specific trafficking offences in the UK. Other offences such as facilitation of illegal entry, kidnap, false imprisonment and living off immoral earnings had to be applied instead. However a number of specific offences were created over time as the UK attempted to combat human trafficking. The UK enacted a number of laws as different forms of trafficking became recognised. These were:

- Section 145 of the Nationality, Immigration and Asylum Act 2002 - Trafficking in prostitution.
- Sexual Offences Act 2003 - Sections 57, 58 and 59 created three offences of trafficking for the purposes of sexual exploitation. The offences covered trafficking another person into the UK (section 57), trafficking within the UK (section 58) and trafficking out of the UK (section 59) with the intention of committing a relevant sexual offence on that person.
- Asylum and Immigration (Treatment of Claimants) Act 2004 - Section 4 created offences of trafficking another person into, within and out of the UK for non-sexual exploitation. This included domestic servitude or forced labour, human organ donation or forcing or enabling another person to acquire a benefit. This meant a state benefit, for example a child benefit, or any advantage derived by the trafficker, which could include financial gain or profit.
- Immigration Act 1971 - Section 25 created an offence of assisting unlawful immigration to a member state (known as 'facilitation'). It was a breach of immigration law by a non-EU citizen (including a breach of another Member State's immigration law).
- Conspiracy to traffick - A conspiracy to traffick would involve the doing of an act by one or more of the parties, or the happening of an event, in a place outside England and Wales. This situation is covered by section 1A of the Criminal Law Act 1977.

Many of these have been replaced by The Modern Slavery Act 2015, please see the footnote for access to a full copy.³²

Trafficking for sexual exploitation

On 10 February 2003 a new set of offences of "trafficking in prostitution" came into force. These offences, under section 145 of the *Nationality, Immigration and Asylum Act 2002*, were simply a stop-gap measure, and were soon replaced by broader offences of "trafficking for sexual exploitation" created by sections 57-60 of the *Sexual Offences Act 2003* which came into force on 1 May 2004.

The wording of the replacement offences is similar to that in the 2002 Act; they prohibit trafficking into, within or out of the UK for sexual exploitation and attract a maximum sentence of 14 years' imprisonment. Unusually, these offences cover not only anything done in the UK by anyone regardless of their nationality, but also anything done outside the UK by a British person or company.

³² <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

Trafficking for labour or other exploitation

Section 4 of the *Asylum and Immigration (Treatment of Claimants, etc.) Act 2004* introduced new offences of trafficking for labour and other exploitation including organ removal or benefit fraud. It is couched in similar terms to the sexual trafficking offences, and covers trafficking to, within or out of the UK for the purposes of forced labour or other exploitation.

Like the other trafficking offences it attracts a maximum penalty (on conviction on indictment) of 14 years' imprisonment and/or a fine.

Following a Sewel motion debated by the Scottish Parliament on 12 February 2004, the new offence applies in Scotland as well as England, Wales and Northern Ireland. It came into force on 1 December 2004. Again the offence can be committed outside the UK (by both British and non-British nationals).

During the final stages of the Coroners and Justice Bill in 2009, Baroness Young of Hornsey tabled new clauses aimed at criminalising servitude and forced labour. New offences were set out in Section 71 of the *Coroners and Justice Act 2009*:

A person (D) commits an offence if—

- (a) D holds another person in slavery or servitude and the circumstances are such that D knows or ought to know that the person is so held, or
- (b) D requires another person to perform forced or compulsory labour and the circumstances are such that D knows or ought to know that the person is being required to perform such labour.

The maximum penalty (on conviction on indictment) is 14 years imprisonment and/or a fine. The offences came into force on 6 April 2010.

Convictions

Despite the creation of a range of new offences to combat human trafficking and slavery the number of convictions for the offences remained extremely low.

Details of the number of convictions for trafficking offences between 2005 and 2011 were set out in response to a written parliamentary question in July 2012:

Defendants found guilty at all courts for human trafficking offences, England and Wales, 2005-2011 (1)(2)

Offence	2005	2006	2007	2008	2009	2010	2011
Trafficking for sexual exploitation	12	15	15	24	23	10	8
Trafficking for exploitation	-	6	8	-	2	6	-
Total	12	21	23	24	25	16	8

It was following a study of the statistics and other factors that the UK government believed that further change was needed. This was because one of the findings was that the legislation to date

was disjointed and a patchwork created over many years. The laws concerning human trafficking and modern slavery needed review and codification under one statute.

This led to extensive review and consultation and the formulation of the Modern Slavery Act 2015.

The Modern Slavery Act 2015

A Modern Slavery Bill was introduced to the UK parliament in June 2014, building on the work of the Modern Day Slavery Bill Evidence Review (2013) and the Joint Committee on the Draft Modern Slavery Bill report (2014).

In Northern Ireland, a private members' bill to firm up trafficking laws was introduced by Lord Morrow in 2013 (now to be integrated into a consolidated bill) and the Department of Justice has issued an updated Action Plan on Human Trafficking and Exploitation for 2014/15. In Scotland, ministers have announced their intention to introduce a consolidated law.

In brief The Bill consolidates the current offences relating to trafficking and slavery.

Key areas

- The consolidation of the existing slavery and trafficking offences into 2 offences.
- Increases the maximum sentence available for the most serious offenders from 14 years to life imprisonment, and those with a previous conviction for a specific sexual or violent offence will face an automatic life sentence.
- The introduction of two new civil orders to enable the courts to place restrictions on those convicted of modern slavery offences, or those involved in such offences but not yet convicted.
- Criminalises preparatory conduct, eg, making a visa application with the aim of bringing someone to the UK on a trafficked basis .
- Introduces a **new slavery and trafficking reparation order** to encourage the courts to compensate victims where assets are confiscated from perpetrators.
- Introduces **slavery and trafficking prevention orders (STPOs) and slavery and trafficking risk orders (STROs)** to restrict the activity of those who pose a risk of causing harm.
- The establishment of **an independent Anti-Slavery Commissioner** to encourage good practice on the prevention of modern slavery offences and the identification of victims. The first commissioner is Mr Kevin Hyland.
- The provision of mechanisms **for seizing traffickers' assets** and channelling some of that money towards victims for compensation payments.
- The creation of a **new statutory defence for slavery or trafficking victims compelled to commit criminal offences.**
- The provision of child trafficking advocates.

- Places a duty on the Secretary of State to make regulations relating to the identification of and support for victims.

The post of Independent Anti-Slavery Commissioner

The creation of an Independent Commissioner is one of the main provisions of the UK's Modern Slavery Act 2015

Kevin Hyland, OBE, is the United Kingdom's first Independent Anti-Slavery Commissioner, leading efforts to tackle slavery and human trafficking. He was formerly a Detective Inspector and head of the London Metropolitan Police Service's Human Trafficking Unit. Mr Hyland helped to establish the Santa Marta Group, a body comprising international law enforcement agencies, civil society, NGOs and the Catholic Church.

The Commissioner is a national official who will work to ensure that modern slavery is tackled in a coordinated and effective manner, including strong international collaboration. The Commissioner is required to publish annual reports for Parliamentary scrutiny.

His first act was to present an intention to develop a 6 point plan to improve the response to human trafficking:

1. Victim care and management
2. Accredited training
 - a. Including senior investigating officers
 - b. Working with the College of Policing
 - c. Capturing people who may not otherwise receive training
 - d. Including the Crown Prosecution Service
 - e. Local (Territorial Policing) training is still important
3. Partnership working
4. Accountability
 - a. How to assess the issue and the responses
 - b. In the first year this will focus on police and statutory agencies
 - c. Consideration around how many victims identified/ how many convictions made/ how many assets stripped
5. Working with the private sector
 - a. Key to understanding trafficking at the origin
 - b. Government strategy looking at source countries and countries where UK business has a footprint – using this research to implement policies and strategies to identify source regions and generate preventative measures
6. International links
 - a. Working with NCA and Regional Organised Crime Units

However, he is limited by a lack of resources. In the first year his office consists of just 4 staff.

Critique

While the passing of this new law was welcomed by many it has not been without criticism. Experts in the issue were sceptical of the bill, believing that it had many shortcomings. Parosha Chandran, a human rights barrister and United Nations expert on trafficking, claimed that "the bill is very poor on victim protection". Anthony Steen, who advised on the legislation and chairs the Human Trafficking Foundation, claimed that the bill failed to focus on the needs of victims of trafficking in the UK. "The bill is wholly and exclusively about law enforcement – but it shouldn't be enforcement-based, it should be victim-based", he said.

Human rights group Liberty argued that the bill should have:

- Addressed abuses associated with the *Domestic Overseas Worker Visa* which prohibits individuals from changing their employer.
- Addressed the conflict of interest arising from UK Visas and Immigration being involved with the *National Referral Mechanism* which is used to identify trafficking victims and which acts as a gateway to support.
- Extended legal aid to slavery victims in civil matters.

However it must be concluded that this is a proactive and significant step by government to improve performance in investigations and prosecutions and also to address a number of victim focused issues especially in relation to compensation and the vulnerability of children. In particular, the creation of independent child advocates has long been argued by ECPAT UK and other NGOs representing the rights of children.

Training

One area where the UK still struggles with is training on human trafficking. While this has been identified as an area of poor performance it remains an issue. It is vital that frontline professionals have an awareness of human trafficking and the indicators to spot potential victims.

Current training is undertaken by The National Centre for Applied Learning Technologies (NCALT). It was established in April 2002 through a collaboration between Centrex (the Central Police Training and Development Authority) and the Metropolitan Police Service (MPS). Today it is part of the College of Policing and all police officers should complete a computer based training package on THB from NCALT. This package was created in 2011 and is available to all 43 police forces in England and Wales.

This course is to be completed as a nationally aligned course and is a standalone product. It is aimed at all officers with any contact with the public (both operational and in call handling/reception desk type duties). It is also available to all PCSOs and public-facing staff.

The module is aimed at anyone who deals with potential victims of human trafficking in the first 6-8 hours of contact.

- Chapter 1 helps learners to recognise and identify the key factors of Human Trafficking,

- Chapter 2 is a fictional account of a domestic servitude situation and helps to highlight the practical implications of dealing with a potential victim of trafficking,
- Chapter 3 takes a look at how the National Referral Mechanism is used by First Responders in obtaining assistance for victims of Human Trafficking.

However, at the time of writing this article, less than 30,000 police officers had completed the course. This is from a total of 126,818 officers in England and Wales as of the 31st March 2015. There is still a lot to do.

The main criticism of the NCALT method is that it does not go into sufficient detail and that anyone going through the session can easily complete it without gaining sufficient knowledge of the subject. In addition it has not been updated to include the EC Directive 2011/36/EU on human trafficking which outlines the new definitions of forced labour. This definition is critically important as it includes 'forced criminality' and begging for the first time. This new EU instrument came in to force on 6th April 2013 and is therefore now enforceable under UK law. It also includes the non-criminalisation of victims of human trafficking which is critical for frontline staff engaged in arresting suspects.

Another critique is that there is limited face to face training and this is often provided by NGOs by local agreement and there is no continuity. Equally there is no input currently into training for detectives.

Police Budgets

A final point which concerns future risks to improving performance in combatting human trafficking in the UK is police budgets.

Over the past 4 years UK police forces have been required to reduce budgets by 25%. In the next four years they will be required to cut their budgets by an additional 20%. In the first round of cuts buildings were sold and efficiency saving made. Units were streamlined and amalgamated and police numbers started to fall.

In 2013 there were 129,584 officers, in 2014 there were 127,909 officers and by the 31st March 2015 there were only 126,818 officers³³.

It is anticipated that over the next 4 years some of the 43 forces in England and Wales will lose up to 25% of their police officers.

This will inevitably mean that services being delivered will have to be restructured and priorities changed. This could have a negative impact in developing and effective police response to trafficking.

³³ National Police Chiefs Council reports 2013 to 2015. NPCC was formerly called ACPO.

Conclusion

The UK receives a favourable recommendation in the US State Department Trafficking in Persons Report. It states:

“The Government of the United Kingdom fully complies with the minimum standards for the elimination of trafficking. Investigations and prosecutions of all forms of trafficking increased and public awareness increased. While the UK government continued to identify a large number of trafficking victims, some stakeholders continued to report that the victim identification and referral system failed to assist many victims of trafficking; some victims were detained and prosecuted for crimes committed as a result of being trafficked. The UK government and Westminster Parliament launched an overhaul of the UK anti-trafficking program to ensure the effective prosecution of trafficking offenders and to create structures for self-critical evaluation; parliamentary enquiries further examined victim protection and transparency in supply chains.”

This review of performance is not accurate. While the general response in the UK can be seen on paper to be proactive, there are many areas of concern. The lack of training of frontline and investigative staff, budget concerns and falling police numbers are concerns that need to be addressed.

The low number of convictions for human trafficking for an offence that is the 2nd largest income generator for organised crime in the world is disturbing.

While the Government has taken a positive step with the introduction of the Modern Slavery Act, there needs to be significant investment in training and the creation of human trafficking investigation teams. Human trafficking investigation is a specialist area, it is an international crime with international dimensions. Officers need to be experts in mutual legal assistance and Joint Investigation Teams. This is lacking in the UK senior detective groups.

In addition there must be more coordination for supporting victims. There are literally hundreds of NGOs with trafficking as their area of expertise. Most specialise in trafficking for sexual exploitation and only a few have children as their focus. While these volunteer groups do outstanding work, they are all competing for limited donations and resources. In addition there is often ‘competition’ as well as varying opinion as to the correct course of action for victims in relation to supporting police investigations.

There is also a lack of training in the Crown Prosecution Service and the judiciary as a whole. This includes those engaged in providing legal advice for those who have been trafficked and forced to commit crime.

The police in all countries face criticism for their poor response on human trafficking however we all have to take responsibility to combat this growing problem. A problem that affects not only individual victims, but their families and the wider communities both here and in the source countries.

Annex - Human Trafficking Definition

Article 3 of the 2004 *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* set out the following definition of trafficking:

(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.

This definition has since been adopted in the *Council of Europe's Convention on Action Against Trafficking in Human Beings* and is also cited by the Government in its 2011 publication *Human Trafficking: The Government's Strategy*.

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