

**Is a victim-centred approach to Human Trafficking key to increasing  
prosecution rates for human trafficking crimes? A UK case study**

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## Glossary of Terms

ATMG	Anti-Trafficking Monitoring Group
CA	Competent Authority
CoE	Council of Europe
CPS	Criminal Prosecution Service
DLR	Discretionary Leave to Remain
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms
ECtHR	European Court of Human Rights
EU	European Union
IPPR	Institute for Public Policy Research
JIT	Joint Investigation Team
MOJ	Ministry of Justice
MPS	Metropolitan Police Service
NGO	Non-Governmental Organisation
NPIA	National Police Improvement Agency
NPIA	National Police Improvement Agency
NRM	National Referral Mechanism
SC&O	Specialist Crime & Operations
SCD	Specialist Crime Direction
SOCA	Serious Organised Crime Agency
UK	United Kingdom
UKBA	United Kingdom Border Agency
UKHTC	United Kingdom Human Trafficking Centre
UN	United Nations
UNGA	United Nations General Assembly
UNODC	United Nations Office on Drugs and Crime
US	United States
YJCEA	Youth Justice and Criminal Evidence Act

## **ABSTRACT**

This paper provides an overview of how the UK currently investigates and prosecutes human trafficking crimes, specifically focussing on the role and treatment of victims within these investigations and the extent to which the UK's approach to human trafficking is victim-centred. This paper argues that adopting a victim-centred approach must be at the heart of the UK's strategy to tackle human trafficking. A failure to do so will result in a loss of vital witnesses, either at the identification stage or during the criminal investigation, and thus lead to a reduction in prosecution rates for trafficking crimes. Moreover, an understanding of the experiences and needs of victims should be a principal consideration in future policing initiatives and training. This paper also contends that the UK is unlikely to see an increase in prosecution rates unless certain resource and training issues are addressed. In particular, the UK would benefit from the following: creating a comprehensive and mandatory training package for police officers and other front-line staff who may encounter trafficking victims; establishing a specialist human trafficking police unit comprising of experienced detectives who focus solely on human trafficking cases; and prioritising bids for European funding in order to undertake future targeted policing operations.

## I. INTRODUCTION

In March 2007, the UK government published an ‘Action Plan on Tackling Human Trafficking’ (Home Office, 2007), a comprehensive document outlining the government’s strategy on the three ‘P’s; Prevention, Protection (of trafficking victims) and Prosecution (of human trafficking crimes). The interconnectedness of these three strands, and a need for an effective strategy to address them simultaneously, was highlighted; for instance, noting that “a strong enforcement arm is not effective unless the corollary victim protection and assistance is in place (p. 5). Within the prosecution element of the strategy the UK pledged to institute “a strong enforcement response...domestically and internationally, to ensure that the UK is a hostile environment for traffickers” (p.8).

Subsequent to the release of this 2007 Action Plan, several significant changes have been made to the way the UK addresses human trafficking, both at the legislative and operative level. These include, amongst others; the ratification of the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings (2008) (hereafter known as the ‘Trafficking Convention’); the establishment of the United Kingdom Human Trafficking Centre (UKHTC); opting in to the European Union (EU) Directive on ‘Preventing and Combating Trafficking in Human Beings and Protecting Victims’ (EU, 2011); and the introduction of a National Referral Mechanism<sup>1</sup> (NRM). These changes not only impact the prosecution element of the Action Plan but also the prevention and protection strands, reflecting an acknowledgement of their interrelated nature and the need for an effective strategy to address them concurrently.

However, despite these changes, the prosecution rate for human trafficking crimes remains woefully low in the UK. In 2010, only 16 people were successfully prosecuted for human trafficking crimes, the lowest number in a five-year period<sup>2</sup> (Hansard, 2012, p.10). With an estimated 4,000 victims of trafficking in the UK at any one time (US Department of State, 2008), on

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<sup>1</sup> A system through trafficking victims are formally identified

<sup>2</sup> The highest being 25 in 2009

average only one person is convicted for every 250 people trafficked. The failure of the UK to successfully prosecute traffickers not only results in a lack of justice for the victims but also compounds the idea that human trafficking is a “low risk crime” (Home Office, 2011, *p.* 21).

In light of these low prosecution rates, this research will aim to provide an overview of how the UK currently investigates and prosecutes human trafficking crimes, drawing on interviews with police, NGO staff and legal professionals, as well as the findings from current literature. Central to the success of human trafficking prosecutions is the involvement and cooperation of human trafficking victims as witnesses (Laczko & Gramegna, 2003, *p.*183). Hence, the role and treatment of adult victims<sup>3</sup> in criminal investigations, beginning from their initial identification, will be the principal consideration throughout. This paper will assess the degree to which trafficking victims are supported and protected, evaluating whether a victim-centred approach to human trafficking is key to increasing prosecution rates.

Specifically, in Chapter IV, the relatively new process (2009) through which trafficking victims are identified in the UK, the National Referral Mechanism (NRM) will be evaluated. The benefits and criticisms of the NRM will be explored and its implications for prosecution rates analysed. Chapter V will assess the protection and support measures afforded to victims who act as witnesses, including at the interview stage and in court. Finally, in Chapter VI, this paper will explore current UK policing measures to tackle human trafficking; evaluating the difficulties in prosecuting human traffickers, the success of current and past anti-trafficking units within the police, and the lessons learnt from previous targeted policing operations. The potential for future police operations will be discussed in light of recent government budget cuts, as well as other initiatives which may facilitate an increase in prosecution rates.

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<sup>3</sup> This research will focus solely on adult victims. Although there is a degree of overlap, the protection measures and support services in place for child victims (those under the age of 18) differ for those of adult victims (see DCSF, 2007; Department for Education, 2011, for practice guidelines). It is beyond the scope of this paper to explore these differences.



Taken together the conclusions from these three distinct but related chapters will be used to assess whether the UK adopts a victim-centred approach to human trafficking, and the efficacy of current policing measures to bring traffickers to justice. In turn, the implications of both of these factors on UK prosecution rates for human trafficking crimes will be addressed.

## II. BACKGROUND

### i. *Human Trafficking in the UK*

The internationally recognised definition of human trafficking<sup>4</sup> is contained in Article 4 of CoE ‘Trafficking Convention’ (2008), which states;

*“‘Trafficking in Human Beings’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, including exchange or transfer of control over that person, 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<sup>5</sup> or of the giving or receiving of payments or benefits to achieve the consent<sup>6</sup> of a person having control over another person, for the purpose of exploitation.”*

This definition is identical to that contained in Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000), commonly known as the ‘Palermo Protocol’.<sup>7</sup>

The UK is primarily a destination country for men, women and children trafficked predominantly from Africa, Asia and Eastern Europe<sup>8</sup> (US Department of State, 2012*b*). To a lesser extent it is also a transit country, and individuals have also been known to have been trafficked out of the UK (see, for instance, the prosecution of Anthony Harrison for the trafficking of two minors out of the UK in 2011 (BBC, 2011)). Internal trafficking, where victims are trafficked from one area of the UK to

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<sup>4</sup> It is important to note the difference between human smuggling and human trafficking, the former of which is a voluntary act with normally little deception or coercion involved and no exploitation by the smugglers once the individual reaches the destination country. For further explanation see US Department of State (2006),

<sup>5</sup> Article 2(2) of the 2011 European Union (EU) Directive further explains that “[a] position of vulnerability occurs when the person has no real or acceptable alternative but to submit to the abuse involved.”

<sup>6</sup> As explained in Article 4(*b*), the consent element of the definition is unnecessary when the victim is a child, i.e. under eighteen years of age. As children cannot give their consent to being moved, the coercion or deception elements do not have to be present (SOCA, 2012).

<sup>7</sup> This protocol is in fact one of three protocols adopted by the UN which are collectively known as the Palermo Protocols.

<sup>8</sup> Nigeria, China and Vietnam were the top three source countries for trafficking victims in the UK in 2011, but victims were identified from over 36 countries (US Department of State, 2012*b*).

another, can also take place. According to the UK's Serious Organised Crime Agency (SOCA) there are four major categories of human trafficking. These are trafficking for the purposes of sexual exploitation, forced labour, domestic servitude and organ harvesting (SOCA, 2012*b*). Other sources (see US Department of State, 2012) also include child trafficking for labour and sexual exploitation, and child soldiers as separate categories.

Individuals are trafficked into the UK for the purposes of sexual exploitation; forced labour in agriculture, construction, food processing, domestic service, nail salons, and food services; and forced criminality through, for example, benefit fraud (US Department of State, 2012). Cases of victims being trafficked into the UK for the purposes of organ harvesting have also been reported (Telegraph, 2012).

Human Trafficking is a covert crime and, as such, it is notoriously difficult to obtain accurate statistics of the number of trafficking victims within a country (Ali, 2010). Recent statistics estimate that there are 4,000 victims of trafficking in the UK at any one time (US Department of State, 2008) and it is estimated that there are as many as 27 million victims of trafficking worldwide (US Department of State, 2012, *p.7*).

*ii. UK legislation to prosecute human trafficking crimes*

The UK government ratified the Trafficking Convention on the 17th December 2008, which came into force on the 1st April 2009. It established minimum standards for service provision for victims of trafficking, including access to safe and secure accommodation; medical, social and psychological support; legal services; assistance in acquiring identification documents, as well as the facilitation of voluntary repatriation or resettlement (see Articles, 12, 15 & 16).

Under Article 31 of the Trafficking Convention (2008) the UK has an obligation to “adopt such legislative and other measures as may be necessary to establish jurisdiction over any offence established in accordance with [*the*] Convention”. Current UK legislation prohibits all forms of human trafficking. Under Section 57 of the Sexual Offences Act (2003), an individual can be prosecuted for trafficking persons into the UK for sexual exploitation, trafficking persons out of the UK (Section 59 of the 2003 Sexual Offences Act), trafficking for exploitation (Section 4

of the Asylum and Immigration, Treatment of Claimants Act, 2004), trafficking in prostitution (under Section 145 of the Nationality, Immigration and Asylum Act, 2002) and for holding someone in slavery or servitude to require them to perform forced or compulsory labour (under Section 71 of the Coroners Act (2009)). Internal trafficking is also punishable under the Section 58 of the Sexual Offences Act (2003).

In April 2011, the UK opted in<sup>9</sup> to the EU Directive on ‘Preventing and Combating Trafficking in Human Beings and Protecting Victims’, replacing Council Framework Decision 2002/629/JHA, which makes significant changes to the legislative framework as set out in its predecessor. The main changes include a broader definition of trafficking to include “begging...or the exploitation of criminal service” (Article 2 (3)), greater assistance and support for victims (Article 11) and the appointment of a national rapporteur or equivalent mechanism (Article 19). Other changes, particularly pertinent to this thesis, include greater penalties for trafficking offences<sup>10</sup>, greater obligations of the member state to investigate trafficking cases<sup>11</sup>, and extraterritorial jurisdiction so that a state may prosecute one of its nationals for a trafficking offence even if the offence was committed abroad (Article 11).

In order to comply with EU Directive, amendments to UK primary legislation were required. Specifically, to comply with Article 2, the offence of trafficking for the purposes of labour or other exploitation (under the Asylum and Immigration Act, 2004) had to be extended to cover trafficking that takes place entirely within the UK, as well as trafficking into or out of the UK. Also, to comply with Article 10(1),

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<sup>9</sup> When the EU Directive was first proposed the UK government announced that it would not be opting-in, stating that it would add no value as the UK had already “put everything that is in the Directive in place” (Hansard, 2010). However, following considerable pressure from civil society groups, the government reversed this decision. In March 2011, the Immigration Minister clarified that, “The new text still does not contain any measures that would significantly change the way the UK fights trafficking. However...[a]pplying to opt in to the directive would continue to send a powerful message to traffickers that the UK is not a soft touch” (Hansard, 2011).

<sup>10</sup> A maximum term of imprisonment of not less than 5 years, and where there are ‘aggravating circumstances’ at least 10 years (Article 4).

<sup>11</sup> A case must be investigated when the victim withdraws his or her statement, and suitable training and investigation tools, such as those used in organised crime, made available (Article 9).

*“[T]he territorial extent of the current trafficking offences set out in the Sexual Offences Act 2003 and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 would need to be extended to cover trafficking by a UK national where the UK was not the country of arrival, entry, travel or departure.”*

(European Scrutiny Committee, 2010-2011)

These amendments have subsequently been introduced through Clause 109 of the Protection of Freedom Act (2012). Secondary legislation was also proposed to ensure full compliance, including for Article 9 to enable access to “effective investigation tools”, and Article 12(4), to ensure that human trafficking victims are automatically eligible for special measures<sup>12</sup> during court proceedings (Hansard, 2012).

***iii. UK prosecution rates for trafficking crimes***

The UK has had, in total, 138 convictions for trafficking: 131 for trafficking for sexual exploitation, including three for conspiracy to traffick and seven for labour trafficking (European Commission, 2012), with sentences ranging from a suspended sentence to up to 14 years (average 4.69 years). In 2006 the UK secured 21 convictions for trafficking crimes, there were 23 convictions in 2007, 24 in 2008, 25 in 2009 and 16 prosecutions for human trafficking in 2010 (Hansard, 2012, *p.* 10).

The number of convictions for human trafficking crimes is low in the UK but the same is true throughout Europe, and globally. For instance, in 2011 there were only 7,206 prosecutions and 4,239 convictions for trafficking throughout the world (US Department of State, 2012*b*), and throughout Europe, conviction rates for human trafficking mostly fall below one conviction per 100,000 people (United Nations Office on Drugs and Crime (UNODC), 2009).

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As shown above there is a substantial body of UK legislation currently in place to prosecute human trafficking crimes, recently increased due to the UK’s decision to

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<sup>12</sup> Special measures will be discussed further on page 35.

opt-in to the EU Directive (2011). However, as the figures show, in relation to the number of trafficking victims believed to be in the UK, there has been little success in bringing their traffickers to justice. This research will explore and offer reasons as to why this is the case.

### **III. METHODOLOGY**

The research aims to provide an insight into how the UK currently investigates trafficking crimes, analysing the importance of a victim-centred approach in achieving successful prosecutions.

Although my research will consider the current situation for victims of human trafficking who assist the UK police, I have chosen not to interview these victims directly. Aside from the issues of gaining access, asking the victims to be interviewed again for the purposes of a Masters dissertation felt unnecessary and potentially unethical. Recounting their experiences is likely to be stressful and they may have already been asked to do so on numerous occasions since being rescued. Instead I wanted to hear the experiences and opinions of those individuals working directly with trafficking victims. I used a purposive sampling method and contacted staff from organisations which provided direct assistance to trafficking victims throughout the course of a criminal investigation. These included staff from NGOs, members (and former members) of the UK police force and solicitors.

For NGO staff I contacted the prime contract holder for support services for adult victims of trafficking in the UK, the Salvation Army, as well as their twelve official sub-contracted support organisations throughout the UK, as published on the Salvation Army's website. Through contacts at ECPAT UK, The Poppy Project and the Salvation Army I was provided the contact details of, and introduced to, members of the police and legal professionals who had experience of working with trafficking victims in criminal cases.

Following the responses I received to my requests for interviews, I conducted face-to-face and telephone interviews with a member of staff from the Salvation Army, the Medaille Trust, and the Poppy Project; three former members of the UK police force (all three had retired from the police within the past 18 months) and a UK-based solicitor from the international law firm, Hogan Lovells. (See Appendix B for a anonymised list of those interviewed). The interviews were semi-structured interviews to allow a degree of standardisation but also to allow interviewees to bring in any issues they felt to be important. While all questions were asked of all interviewees, interviews were conducted in a manner that was sensitive to the

interviewees' narrative, allowing for prompts and exploration of topics raised, thus enhancing the qualitative information obtained.

The questions varied somewhat for each of the three groups of interviewees (NGO staff, Police and legal professionals) to reflect their different roles in assisting victims in criminal cases. The questions were developed based on my initial research into the subject and the research questions I was attempting to address. See Appendix C for the full list of interview questions.

Each interview was audio-recorded and written notes were taken (only the latter if the interviewee did not wish to be taped). The interviews were then transcribed and the transcripts analysed using a thematic content analysis. The chapter titles in the analysis reflect the main themes that were uncovered. My analysis, conclusions and recommendations reflect both the findings from my research of the current literature and the responses obtained in the interviews. This 'triangulation' of data not only improves the validity of my research, but also improves and widens my understanding of the subject area (Olsen, as cited in Holborn, 2004).

*i. Limitations*

Interviewees were purposively sampled due to the relatively narrow research focus, and all those who responded positively to my enquiry emails were interviewed. Professional contacts and interviewees also provided me with additional contact names, some of whom were also interviewed.<sup>13</sup>

Although I contacted a wide range of potential interviewees from across England, Wales and Scotland, the vast majority of those contacted were based in or around London area. This is due to the general clustering of organisations in London, but also influenced by the fact that I, and most of my colleagues as well as their contacts, are based in London. Although the NGOs interviewed provided support to trafficking victims across the UK, rather than just in London, and the police worked closely with other forces across the UK, this geographical bias limits the extent to which the findings from this research can be generalised.

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<sup>13</sup> Hence, it could be said that 'snowball' sampling was also used (Marshall, 1996, p.523)



The findings are also limited by the small sample size. Some of those initially contacted responded to say that due to time constraints, and the high volume of interview requests from students, they would be unable to take part in an interview. The relatively short time frame in which to undertake this research also limited the number of interviews completed. In addition, the one solicitor interviewed did not have experience assisting victims through criminal procedures, only in compensation claims, and was therefore unable to answer some of my prepared questions. This unfortunately means that I was unable to include the perspectives of a legal professional in some aspects of my analysis. Again, these limitations in my sample reduce the degree to which the findings can be generalised.

As aforementioned, due to ethical reasons, as well as the difficulties in obtaining access, trafficking victims were not interviewed as part of this study. Instead, staff from NGOs, the police force and solicitors who worked (or had worked) directly with trafficking victims were interviewed. Rather than first-hand experiences, my research findings are therefore based on second-hand accounts of victim experiences. Although one would hope that the responses given aimed to be an accurate representation of the experiences and views of trafficking victims, they will naturally be coloured and influenced by the interviewee's personal viewpoint and opinions.

## *ii. Ethical Considerations*

***Informed Consent-*** Through the introductory email and subsequent correspondence participants were informed of the nature and purpose of the research. Each interviewee was required to sign a consent form (see Appendix A), which explained that the interview could be stopped at any point and any information exclude from my write-up should they wish.

***Subject matter and confidentiality-*** Throughout the interview process and in reporting my findings, I remained aware of the highly sensitive of the subject matter. Although I asked interviewees to discuss their direct observations and the feedback they had received from victims about their treatment at various stages of the criminal process, I did not ask them to discuss individual cases. In reporting my findings I was careful to ensure that no victims could be identified. All interviewees were happy for

their organisation to be named. Interviewees were assigned a number in place of their name and personal details removed from analysis to maintain their anonymity.

**Interview data-** Interviewed transcripts were stored in a way that was compatible with the Data Protection Act (ICO, 1998).

**Impact of research** – Although I did not interview trafficking victims directly, I was aware that through commenting on trafficking policies, organisations and legislation my research may impact on their lives (as highlighted in Section 1.3 of the International Sociological Association’s Codes of Ethics). Furthermore, although I was cautious not to single out any organisation or individual out for criticism, instead focussing on global issues, I am aware that by commenting on particular procedures and relaying feedback from interviewees, I may inadvertently criticise certain agencies.

**Personal Bias-** As a human rights advocate with a specific interest in the welfare of trafficking victims, it was important to remain objective at all stages of the research and conscious of the potential impact my personal bias may have on my conclusions i.e. it was important to remain ‘reflexive’ (Alverson *et al.*, 2009).

Throughout the research I aimed to maintain the highest possible ethical standards by adhering to the ‘Statement of Ethical Practice for the British Sociological Association’ (Britsoc.uk, 2002).

#### IV. IDENTIFYING VICTIMS OF TRAFFICKING: THE FIRST HURDLE

*“Failure to identify a trafficking victim correctly will probably mean that victim’s continuing to be denied his or her fundamental rights and the prosecution to be denied the necessary witness in criminal proceedings to gain a conviction of the perpetrator for trafficking in human beings.”*

*Para. 127, Trafficking Convention (2008) Explanatory Report*

##### **The National Referral Mechanism**

As part of their obligations under Article 10 of the 2008 Trafficking Convention, the UK established the National Referral Mechanism (NRM); a system to identify individuals trafficked into the UK. Those individuals suspected of being victims of trafficking can be referred by ‘first responders’ (such as the UK police, UK Borders Agency (UKBA), and certain Non-Government Organisations (NGOs); for instance, Kalayaan and Barnados) to one of two Competent Authorities (CA)<sup>14</sup> who will then determine whether there are ‘reasonable grounds’ to suspect that the individual is a victim of trafficking. If a positive decision is reached the individual will then have 45 days ‘Recovery and Reflection’ period during which the CA will investigate the individual’s case and come to a conclusive decision as to whether the individual is a victim of trafficking.<sup>15</sup>

The NRM came into operation on the 1<sup>st</sup> April 2009. From its inception until the 31<sup>st</sup> December, 2011<sup>16</sup>, 2,207 individuals had been referred through the NRM as potential victims of trafficking (SOCA, 2012c). Of those referred, 768 (35%) received a positive ‘Conclusive Grounds’ decision<sup>17</sup>.

##### ***i. Benefits of the NRM***

The potential benefits that the NRM system in the UK provides to trafficking victims are notable. As stated above, if an individual reaches the threshold for a positive

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<sup>14</sup> The UK’s two CAs are the Human Trafficking Centre (UKHTC) and the UKBA.

<sup>15</sup> A detailed explanation of NRM procedures can be found on the SOCA website (2011b).

<sup>16</sup> Statistical data beyond this date was not available at the time of writing.

<sup>17</sup> It is important to note that the statistical data available from between July and December 2011 did not take into account those who may have received a positive decision after March 2012.

‘reasonable grounds’ decision i.e. the case manager believes that “from the information available so far I believe [*that the person has been trafficked*] but cannot prove” (SOCA, 2012d), they are granted a 45-day ‘Recovery and Reflection’ period<sup>18</sup>, which may be extended depending on the individual’s circumstances. This ‘reasonable grounds’ threshold is purposefully intended to be low, the decision being made based on information and intelligence gathered as well as the direct input from the potential victim (Criminal Justice System, 2012), in order that the victims may receive assistance as rapidly as possible.<sup>19</sup> An affirmative ‘reasonable grounds’ decision protects the individual from being removed from the UK (at least until the identification process has been completed by the competent authorities under Article 10 of the Trafficking Convention) and entitles them to Ministry of Justice (MOJ) safe house accommodation, and the full range of support and assistance measures as listed under Article 12 of the Trafficking Convention to facilitate their physical, psychological and social recovery. These include access to medical treatment, counselling, legal advice, and translation and interpretation services.

The purpose of this reflection period is to allow the individual to recover from their ordeal and consider their future options, which can include choosing to return home or assisting the UK police in their enquiries to prosecute their traffickers.<sup>20</sup> It is the role of the organisations that provide support during this period<sup>21</sup>, including non-governmental organisations and the police, to ensure that the victim is aware of their

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<sup>18</sup> This 45-day period granted by the UK is longer than the recommended 30 days suggested in Article 13 of the Trafficking Convention.

<sup>19</sup> In a judgement by the European Court of Human Rights (ECtHR) in the case of *Rantsev v Cyprus and Russia* [2010] ECHR 22, the court found human trafficking to be a violation of Article 4 (on the prohibition on slavery, servitude, forced and compulsory labour) of the European Convention of Human Rights (ECHR) and concluded that States have a positive obligation to both identify victims and “to take appropriate measures to remove that individual from that situation or risk” (*para.* 286). This obligation “necessitates rapid accurate identification” of victims and that “breaches by the government under *Rantsev* of its positive obligations, may give rise to serious damages-based litigation” (Chandran, 2011, p.33), such as that in *OOO and others v Commissioner of Police for the Metropolis* [2011] EWHC 1246 (QB).

<sup>20</sup> One option available to trafficking victims, as a remedy for the human rights abuses they have suffered, is to make a compensation claim. This can be done in parallel to a criminal case, should they choose to assist the police. Chandran (2012, pp. 273-335) provides further details of the compensation options for trafficking victims and the potential difficulties in securing successful claims.

<sup>21</sup> See Chapter V for further discussion on the support and protection measures for trafficking victims.

options and the risks associated with each course of action so that they are able to make fully-informed, independent choices (Interviewee 6, 1<sup>st</sup> August 2012).

**ii. Criticisms of the NRM**

One interviewee stated that since the introduction of the NRM, “Things have got incredibly better...the UK is moving towards a more victim-centred approach and we should be grateful for that” (Interviewee 3, 20<sup>th</sup> July 2012). However, those interviewed were unanimous in their belief that the NRM process was flawed. The criticisms voiced largely echoed those documented in the Anti-Trafficking Monitoring Group’s 2010 report ‘Wrong Kind of Victim?’, which provides an analysis of UK measures to protect trafficking victims. The key criticisms are discussed below.

**a. UKBA as a ‘Competent Authority’**

The role of the UKBA as one of the two CA’s in the NRM process was an issue noted by almost all interviewees.<sup>22</sup> It is currently the case that most referrals from ‘first responders’ are sent to the UKHTC, which then either processes the referrals internally or refers them on to the UKBA. The distribution of cases between the two competent authorities is dependent on the immigration status of the individual in the UK. Citizens from European Union (EU) states and the European Economic Area (EEA) are generally processed by the UKHTC, unless there is a question of their legal right to reside in the UK. The UKBA, in contrast, processes those from outside of the EU as well as those cases where the UKBA is a first responder (ATMG, 2010, p.27).

Whether the UKBA, an organisation tasked to “protect the UK border” (Home Office, 2012) and enforce limits to the number of non-EU citizens entering the country (Home Office, 2011b), should be responsible for assessing referrals for potential victims of trafficking was questioned by interviewees. Although one interviewee commented that the UKBA’s involvement in the NRM process was a

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<sup>22</sup> The exception being the solicitor whose interview questions did not touch on this subject.

result of immigration ministers' concerns that "trafficking may provide a back-door route into the UK" (Interviewee 3, 20<sup>th</sup> July 2012), it was felt that the UKBA operated on a "culture of disbelief" (Interviewee 6, 1<sup>st</sup> August 2012). With immigration targets to meet, the UKBA's current agenda is one of "tipping the balance so that more people are leaving the country than coming in" (Interviewee 4, 25<sup>th</sup> July 2012). As a result, there was a feeling that those referred were first and foremost viewed as illegal immigrants before being seen as potential victims of trafficking.

This conflicting agenda may come into play when a victim of trafficking is applying for asylum at the same time as being referred through the NRM as a victim of trafficking. As the UKBA is responsible for processing all asylum claims it may be the case that a UKBA official is responsible for reviewing both their asylum application and their NRM referral (ATMG, 2010, p. 28). The two processes are intended to be separate but due to resourcing issues UKBA staff have been known to complete both for one individual. The independence of the resulting decisions is questionable, as one interviewee argued, "It is absolutely impossible to ask a human being not to cross-refer them in [*their*] mind" (Interviewee 3, 20<sup>th</sup> July 2012).<sup>23</sup>

Interviewees stated that the difference in the quality of referral decisions made by the UKHTC and the UKBA, both at the reasonable and conclusive grounds stage, was marked. This was also noted in the ATMG's (2010) report which highlighted that those referred were less likely to receive a positive decision from the UKBA than from the UKHTC. The report analysed statistical data for referrals into the UKHTC and the UKBA from between April and December 2009 and found that:

*"The UK citizens referred were speedily identified as having been trafficked with a rate of 76 per cent of cases positively identified as trafficking, in contrast with the rate of cases positively identified as trafficked as a whole of 19 per cent. The rate of nationals from other EU states identified as*

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<sup>23</sup> The UKBA does however provide guidance to mitigate for this "element of subjectivity on the decision maker's part" (Home Office, 2010, p.23) by suggesting that "a second case worker should review the NRM decision and that second case worker should not be directly involved in the case's asylum decision" (*ibid.*, p. 23)

*trafficked was 29.2 per cent, while that of nationals from countries outside the EU was only 11.9 per cent.”*

(ATMG, 2010, p. 9)

This suggests that those from outside the EU, and whose referrals are to be processed by the UKBA are less likely to be positively identified as a victim of trafficking. As the ATMG report suggested these statistics “merit further investigation by the Home Office” (p.9) to ensure that individuals are not being discriminated against based on their nationality, and thus the UK is not violating Article 3 of the Trafficking Convention<sup>24</sup>.

Interviewees provided several case studies where individuals who were clearly victims of trafficking failed to be identified as such. Some of the case studies revealed inconsistencies in the quality of decision making made by each of the competent authorities. For instance, Interviewee 2 recalled the referral of two Nigerian females into the NRM who were the same age and who were rescued from the same brothel. Fear of deviating from the ‘legend’ they had been told by their traffickers, who controlled them using ‘Juju’ witchcraft<sup>25</sup> resulted in the two females retelling the same story of how they came to be in the UK. However, only one of the females was positively identified as a victim of trafficking by the UKBA. The other failed to be identified as a trafficking victim due to inconsistencies in her story. The fact that two almost identical referrals can result in opposite decisions is concerning and may indicate a lack of training for UKBA staff, as it is well-documented that trafficking victims will often recount inconsistent stories as a result of the trauma they have experienced, a fear of the authorities and/or the repercussions of speaking out.<sup>26</sup> One interviewee asserted that the reduced quality of decision-making by the

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<sup>24</sup> Which states that “the enjoyment of measures to protect and promote the rights of victims shall be secured without discrimination”.

<sup>25</sup> ‘Juju’ is a form of witchcraft originating in West Africa, and traffickers have been found to use it to exert control over their victims (Individuals are also known to have been trafficked into the UK to take part in juju blood rituals (COMBAT, 2011)). Fear of breaking the oath that is undertaken as part of the juju ritual, and the negative consequences that they are told will result, ensures that the victim remains compliant. The first successful prosecution of an individual for trafficking involving the use of juju was secured by the UK in July 2011 (BBC, 2011).

<sup>26</sup> The UKBA guidance for its staff does highlight that potential victims of trafficking may, as a result of the trauma experienced, have inconsistencies in their stories and may have

UKBA may be due the high staff turn-over, with staff only being assigned to NRM case-work for six months before moving to another department, resulting in a lack of institutional knowledge and the build-up of “a corpus of knowledge within the organisation” (Interviewee 3, 20<sup>th</sup> July 2012).

**b. Lack of appeal process**

There is currently no formal right of appeal for trafficking victims who receive a negative conclusive grounds decision i.e. they can neither challenge the decision nor have it reviewed by a competent authority. This lack of appeal process is both concerning because of the enormous impact that the decision has on the individual’s life and the large percentage of cases of those referred who receive negative decisions. It has been questioned (ATMG, 2010, p.42) whether this lack of appeal process is consistent with the right to an effective remedy, guaranteed by the Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms (Article 13).

Although there is no formal appeal process, there is an option for decisions made by the competent authorities to be submitted for Judicial Review by the Administrative Courts. However, this process is expensive and is intended to ascertain whether the decision-maker acted lawfully in the process of reaching the decision rather than an assessment of the decision itself (ATMG, 2010, p.42). It is also the case that decisions can be ‘reviewed’ if new, substantive evidence comes to light to show that the individual has been trafficked. However, as one former police officer noted, this may be easier to do if the request to review comes from the police rather than NGOs.

**iii. Implications for prosecution rates**

The importance of an effective identification system for victims of trafficking cannot be overstated, not least because the UK is positively obligated to identify victims and remove them from harm under international law. Such a system is not only important for the victim to ensure that their fundamental human rights are protected and they

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difficulties in recalling facts and dates, and this should be taken into account when assessing the credibility of a claim (Home Office, 2010, p.22).



receive the support that they are entitled to, but it can also have significant implications for their involvement in the judicial system, and thus, the UK's ability to successfully prosecute trafficking crimes.

By definition, the prosecution in a case involving the crime of human trafficking must show the movement and exploitation of an individual, which necessitates the identification of a victim. Fewer successful identifications automatically limits the number of individuals who can potentially participate in the criminal investigations for trafficking crimes. The low percentage of individuals referred into the NRM who receive a positive grounds decision (for instance, between January and March, 2012, this figure was only 26 per cent (SOCA, 2012c)) is concerning. If found not to be a victim of trafficking by a CA, the likelihood that the individual will be used as a witness by the prosecution is greatly reduced as their credibility would undoubtedly be called into question. As one former police officer explained;

*“If the UKHTC, the experts in this, have already said the individual is not a victim of trafficking, then the defence will say, ‘If they’re not a victim of trafficking, then he can’t be a trafficker, so what are we all doing here?’”*

(Interviewee 4, 25<sup>th</sup> July 2012)

Even aside from the challenges a negative decision may provide the prosecution, a failure to be correctly recognised as a victim of trafficking is likely to have a significant psychological and emotional impact on the victim, and their willingness to cooperate with the authorities. The victim is likely to lose faith in the UK system and compound any distrust they may already have. Even if their case is reviewed (following a negative conclusive grounds decision), and they are correctly identified as a victim of trafficking at a later stage, the trust that they have in the UK authorities may already be irrevocably broken.

The 45-day recovery and reflection period, following a positive reasonable grounds decision, is the time in which the potential victim should receive support to recover from their ordeal and decide whether or not they wish to assist the police with their investigations. This ‘minimum’ time period is 50 per cent longer than the Council of

Europe recommendation, and may be extended depending on the individual's circumstances. The length of time it takes a trafficking victim to recover is largely dependent on their resilience to the trauma they have experienced, as well as their access to appropriate support to facilitate recovery, and some may never recover fully. As a number of those interviewed reiterated, it is only once the victim receives the necessary support to facilitate their physical, psychological and emotional recovery will they be willing and able to assist the police in their investigations.

However, a significant delay between the victim being 'found' and them providing evidence may impede on the type and quality of evidence available to the police. For instance, information about the location of other victims provided months after the individual has been rescued may be of no significant use to the police as the traffickers will already have moved the victims to an alternative location. Physical injuries as a result of the abuse suffered at the hands of their traffickers may have healed by the time the victim feels able to assist the police with their enquiries. The delay may also affect the police's ability to collect independent corroborative evidence to support the investigation. For example, CCTV<sup>27</sup> footage, for instance, showing the arrival of a victim at a UK airport, can provide crucial support to the victim's story. However footage will only usually be kept for a period of thirty days, a shorter time period than the Reflection and Recovery period, hence this evidence would be unavailable if the victim only decided to cooperate with the police at the end of the reflection period. There is clearly a balance to be struck between ensuring the victim has sufficient time to recover and the prompt commencement of the police investigation so that vital evidence may be collected to support the case.

To conclude, the first hurdle is the correct identification of the individual as a victim of trafficking. An effective identification system is crucial to "ensuring that the human rights of trafficked persons are protected" (OSCE/ ODIHR, 2004, *p.* 10). Only once a victim has been correctly identified are they entitled to the support and protection measures provided by the State to trafficking victims. Failure to correctly identify trafficking victims effectively leads to loss of a vital witness for the prosecution. If correctly identified, the support provided to the victims during the

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<sup>27</sup> Close Circuit Television.

recovery and reflection period will be of utmost importance. In an attempt to simplify a complex process- the better the quality of support, the faster the recovery of the victim, and the sooner they are likely to feel able to assist the police to provide vital evidence in their investigations.

*iv. Recommendations*

Given the importance of an effective identification system for the victims of trafficking and the potential impact it has on prosecution rates for trafficking crimes, the efficacy and validity of the NRM should be regularly reviewed. Following their criticisms of the NRM process, interviewees had several recommendations as to how the NRM process could currently be improved. These include:

**1. Reducing the role of the UKBA**

Some interviewees suggested removing the UKBA as one of the competent authorities entirely, away from an organisation which has “performance indicators which clash with the needs of victims” (Interviewee 5, 1<sup>st</sup> August, 2012). Others suggested taking a select number of UKBA staff to work within the UKHTC team on NRM cases on a long-term basis. Both organisations could then work together on cases, with the hope that a “softer ‘victim-centred’ approach would rub off on [UKBA staff] from the people around them” (Interviewee 3, 20<sup>th</sup> July 2012).

**2. Further training for ‘first responders’ and UKBA/UKHTC staff**

The majority of those interviewed stressed the importance of establishing accredited training courses for those UKBA and UKHTC staff who are responsible for processing NRM cases, not just “turning up cold, it is too important for that” (Interviewee 4, 25<sup>th</sup> July, 2012), to bring the UK further into line with Article 10(1) of the Trafficking Convention. The training should be comprehensive, with substantial input from NGOs and other frontline services which provide support to trafficking victims. Those working on NRM cases should ideally have some past experience with working on trafficking cases and should remain on NRM case work for a significant length of time (two to three years was suggested).

However, even before the individual can be referred to a CA, they must first be identified as a *potential* victim of trafficking. This requires a level of awareness and knowledge on the part of first responders to recognise the tell-tale signs that an individual has been trafficked. The level of awareness of human trafficking amongst police officers was said to be “patchy” (Interviewee 3, 20<sup>th</sup> July 2012). There is currently no mandatory training for frontline police officers on human trafficking, although the National Police Improvement Agency (NPIA) have created an online e-learning course which police can voluntarily participate in. Frontline staff should not only be skilled at identifying victims of trafficking, but should be aware of UK legislation to prosecute trafficking crimes and the support and protection measures available to victims of trafficking.

It must be acknowledged that in some trafficking cases it may be difficult for UK border staff to identify a trafficking victim, even with the correct training; for instance, when an EU national is entering the UK legally under the Freedom of Movement Directive (2004) or under a tourist visa. In cases where the individual has been internally trafficked they will not even come into contact with UK border staff (IPPR, 2012, p. 14). It would therefore also be beneficial for the training to be rolled out to other frontline staff, such as social workers and health service workers.

### **3. Establishing a formal appeal process in the NRM**

Due to the significance the decision made by a CA has on the victim, a formal appeals procedures should be put in place. Victims who have received a negative conclusive grounds decision should have the opportunity for their decision to be reviewed by an independent body, to bring the NRM further into line with the UK’s criminal and civil courts, and even the UKBA’s asylum mechanism, which all currently have an appeals process.

## V. PROTECTION AND SUPPORT MEASURES

### i. *Considerations for victims in assisting the police*

It is during the 45-day Recovery and Reflection Period, granted following a positive ‘reasonable grounds’ decision, that the victim’s right to remain resident in the UK will be assessed. Dependent on the wishes of the individual, their personal circumstances and their involvement in the criminal justice system, applications for temporary or permanent residence can be made. International legislation offers victims of trafficking various options through which to obtain temporary or permanent residence status<sup>28</sup>, although the availability of certain options and the success rate of claims<sup>29</sup> made through the mechanisms available may be largely dependent on the victim’s nationality.<sup>30</sup>

Under the NRM, as a result of obligations under the Trafficking Convention (Article 14 (1) (b)), a victim of trafficking may be granted ‘discretionary leave to remain’ (DLR) in the UK for a period of up to one year if they are assisting the authorities in

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<sup>28</sup> Under Article 14 of the Trafficking Convention, victims can be offered a renewable, temporary period of residence (in the UK this amounts to a period not exceeding 12 months), if the CA believes that this is necessary due to personal circumstances (14(a)) or if they are cooperating with authorities in criminal investigations (14 (b)). The Palermo Protocol (2000) also suggests granting either a temporary or permanent residence permit due to ‘humanitarian’ and ‘compassionate’ factors (Article 7 (2)). Chandran (2011) also reiterated that in Ms Joy Ngozi Ezeilo’s, the UN Special Rapporteurs for Trafficking, report it was noted that “a right of temporary residence in a country on humanitarian grounds may form an effective remedy for trafficking and exploitation-related harm” (p. 250). A victim, or potential victim, of trafficking may also claim asylum in the UK, owing to well-founded fear of persecution, as defined by the 1951 Refugee Convention (Article 1(A)(2)) (see Chandran, 2011, p.252-265 for an in-depth analysis of trafficking-related asylum claims), however the victim’s nationality will impact on their asylum claim (see note <sup>26</sup> below).

<sup>29</sup> A comprehensive breakdown of current Asylum statistics is provided online by the Refugee Council (2012).

<sup>30</sup> Under the Freedom of Movement Directive (2004), a victim who is a national of an EU member state has the right of residence in the UK for a period of up to three months if a holder of a valid identity card or passport (Article 6), for longer periods if they meet certain criteria (Article 7) and may be eligible for a permanent residence permit (Article 16). EU nationals may also claim asylum, however, as EU members states are to be regarded as safe countries of origin, their asylum claim will be considered “in the context of a presumption that such a claim is ‘manifestly unfounded’” (Home Office, 2006), although that presumption can be rebutted. It has been argued (McAdam, 2007, p.280) that this presumption, coupled with the fact that, unlike third country nationals, EU nationals will not be eligible for support under the Nationality, Immigration and Asylum Act (2002) unless it will lead to a breach of the ECHR, that EU nationals are actually in a less advantageous position than those from outside the EU.

their criminal investigations. Potential victims are under no obligation to cooperate with the police in their investigations (Home Office, 2010, p.16) and the granting of residence permits should not be made conditional on this basis.<sup>31</sup> By remaining in the UK the police and legal professionals involved in the criminal investigation have greater ease of access to the victim to obtain evidence, at the same time as the victim is provided with the support necessary to facilitate their recovery. Interviewees did note, however, that in past criminal investigations the defence had attempted to weaken the prosecution's case by claiming that the victim was incentivised to assist the police by the promise of this DLR. Ideally, to mitigate for this, the victim would be in a position to assist the police without this DLR being a motivating factor, having secured their right to remain in the UK already<sup>32</sup>, although due to oft-protracted asylum process this is not always possible (Interviewee 4, 25<sup>th</sup> July 2012).

The decision to assist the police with their investigations is one that ultimately rests with the victim but should ideally be made once they are fully informed of all potential consequences and outcomes.<sup>33</sup> The fears a victim may have in assisting the police, even aside from their fears of the police themselves<sup>34</sup>, could be numerous. Several interviewees reported that the victims' primary fear was that the trafficker(s) would know that they were cooperating and would find and harm them as a consequence, or that family members back in their home country would be in danger from harm. Shame as a result of the exploitation they had suffered, particularly for those who were forced into prostitution, was also a factor; with the UK authorities unable to control the media extraterritorially, victims feared they would be 'named and shamed' in their home country (Interviewee 4, 25<sup>th</sup> July 2012).

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<sup>31</sup> In her 2011 report, the Special Rapporteur for Trafficking noted that such conditionality "may not only compromise trafficked persons' rights to full recovery, but may also be counterproductive from law enforcement perspectives" (*para.* 52).

<sup>32</sup> Victims may be able to assist the police in their enquiries should they wish to return home e.g. by assisting in legal proceedings through the use of video conferencing and web links (Home Office, 2010, p.36).

<sup>33</sup> Interviewees discussed cases where the victim was persuaded to take a certain course of action, rather than being allowed to freely make their own choice, which resulted in negative outcomes. For instance, in a domestic servitude case the individual was persuaded to go through an employment tribunal to seek compensation. Instead of the claim being successful and the individual receiving compensation, they were in fact charged with perjury (which was eventually overturned) and deported (Interviewee 3, 20<sup>th</sup> July 2012).

<sup>34</sup> Traffickers commonly instil a fear in victims that approaching the police will result in their arrest or deportation. Victims may also have had negative experiences with corrupt officials in their source country who facilitated their trafficking.

Despite these serious, and potentially rational, fears the vast majority of victims agree to cooperate with the police, according to those interviewed. Their motivations for doing so range from seeking revenge, achieving justice for the abuse they have suffered, finding closure for their ordeal, to more altruistic reasons- helping to ensure the successful prosecution of their traffickers so that no one else has to endure the same. One NGO worker (Interviewee 3, 20<sup>th</sup> July 2012) also suggested that cultural and societal factors may influence a victim's decision to cooperate, specifically that they feel unable to refuse to assist a police man or immigration official if requested. Some victims may originate from countries where such recalcitrant behaviour would warrant serious penalties, in places where corruption is commonplace and the authorities rule primarily through violence and the fear it generates.

Although the majority of victims "with the right support" (Interviewee 6, 1<sup>st</sup> August 2012) will assist the police, interviewees noted that certain nationalities are more willing than others. In the experience of one former police officer, victims from certain Eastern European countries, such as Russia, Latvia and Lithuania, were more likely to cooperate as they were more familiar with the UK system and their rights under it (Interviewee 2, 19<sup>th</sup> July 2012). The victim's situation in their home country (or 'source' country) will also have an impact. If the individual is trafficked internationally, rather than internally, the UK police in their investigations will attempt to liaise with the authorities in the source country. However, if the victim derives from a small or close-knit community the victim could be easily identifiable. In some instances the trafficker may be in league with corrupt elements of the police force. If the traffickers know that the victim is testifying against them, family members within the community may be at risk.

The level of support they receive on their first encounter with the UK police will also have an impact on their decision to cooperate. If frontline staff treat the victim with a degree of suspicion or are insensitive to their needs as a trafficking victim this may have a negative knock-on effect in their future interactions with the police (Interviewee 6, 1<sup>st</sup> August 2012). Even if frontline staff have identified the individual as a potential victim of trafficking, the victim themselves may not identify as such (Council of Europe, 2008*b*). Some may never have heard of the crime of human trafficking, and hence unaware that they are victims, or willingly chose to come to

the UK (due to, for instance, cultural or family obligations or to escape poverty albeit unaware of the exploitation they would face on arrival), and therefore believe they would not be classed as a victim. It is therefore imperative that frontline staff are aware of the signs of human trafficking to enable them to identify potential victims and signpost them on to relevant support services (see below). This is particularly important when victims have been forced to undertake criminal activities as part of their exploitation, to ensure they are treated as victims rather than criminals.<sup>35</sup>

*ii. Protection and support throughout the criminal case*

In July 2011, the government contract for managing support services for adult victims of human trafficking was, somewhat controversially<sup>36</sup>, awarded to the Salvation Army.<sup>37</sup> Through certain service providers, the Salvation Army is contracted to “ensure that victims are supported to attain their entitlements under ECAT [*Trafficking Convention*]” (Interviewee 1, 11<sup>th</sup> July 2012). Under the guidance and management of the Salvation Army, 12 organisations throughout the UK are sub-contracted to deliver victim care services, including the Migrant Helpline, The Medaille Trust, Unseen and City Hearts (Yorkshire and Northwest).<sup>38</sup> The sub-contractor the individual will be referred to is dependent on their level of need and the type of exploitation they have experienced.

It is the role of these support organisations to inform the victim of their options, including assisting the police, and provide the support necessary to facilitate their recovery. Victims of trafficking will have suffered a varying degree of physical and

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<sup>35</sup> Article 26 of the Trafficking Convention and Article 8 of the 2011 EU Directive provide “for the possibility of States not imposing penalties on victims for their involvement in unlawful activities to the extent they are compelled to do so” (Bowen, in Chandran, 2011, p. 395). The issue of the non-criminalisation of trafficking victims is a complex one and it is beyond the scope of this research to discuss. See Chandran, 2011, p. 395-426 for current legal guidance on the issue.

<sup>36</sup> See, for instance, the Guardian (2011) in which it is argued that the Salvation Army would provide merely a “bare minimum service” for victims of trafficking.

<sup>37</sup> The contract had previously been held by the Poppy Project, a specialist service for women trafficked for sexual exploitation run by the London-based umbrella organisation ‘Eaves Housing for Women’. Although not officially listed as one of the Salvation Army’s sub-contractors, the Poppy Project continues to provide support and accommodation, albeit significantly scaled-down, for female victims of trafficking who have been sexually exploited.

<sup>38</sup> See the ‘Human Trafficking- Six month review’ (Salvation Army, 2012) for the full list.



mental harm as a result of their exploitation (see, for instance, Zimmerman, 2003; Zimmerman et al., 2006; Farley, 2003 and Tudorache, 2004), which may require both immediate medical attention and longer-term psychological support. Due to the vital role these support organisations play, their continued funding must remain a priority for the UK government.

A good working relationship between the NGOs who provide support and the police was felt to be crucial. NGO staff must have a comprehensive understanding of police procedures so they are able to inform victims of what to expect should they agree to cooperate (Interviewee 6, 1<sup>st</sup> August 2012). Regular contact between NGO staff and police officers enables this. Fundamental to establishing a good working relationship is a level of mutual trust. NGO staff must feel confident in allowing police access to interview the victims, and assured that their questioning will be sensitive and not hinder the recovery process for the client. Both NGO staff and police interviewed felt that this relationship was improving, particularly with the Specialist Crime & Operation's 'Human Exploitation and Organised Crime Unit' (SC&O9) (see Chapter VI (i) for further details).

**a. Interviewing victims**

Victim testimony is crucial in human trafficking cases, when used in conjunction with independent collaborative evidence<sup>39</sup> (Interviewee 4, 25<sup>th</sup> July 2012), therefore the interviewing of victims must be carefully handled. The MOJ provides comprehensive guidance on best practice when interviewing victims and witnesses (see MOJ, 2011), including 'intimidated' witnesses (as defined in *para.* 1.18, a category under which a large number of trafficking victims would fall). Kaur (in Chandran, 2011) noted there may be additional challenges to be addressed when interviewing trafficking victims. Due to the trauma they have experienced and feelings of shame and fear, their testimony is often disjointed and a full account of their experiences may only come to light over a course of several interviews (*p.*112). The interviewing space has to be a safe environment for the victim and the

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<sup>39</sup> Which can include such investigative methods as analysing bank records, video surveillance, and collecting email and written correspondence, as proscribed by Article 20 of the UN Convention Against Transnational Organised Crime (UNODC, 2006). See also CPS (2011, *p.*16) for additional types of supporting evidence used in human trafficking investigations.

interviewer must be aware that that the trafficked person may still be under the control of the trafficker (*ibid*, p.105). In addition, the victim may fear speaking out about their experiences or deviating from the story they were told to repeat by their traffickers on encountering the authorities due to their control under witchcraft, such as juju or voodoo (*ibid*, p. 113). It is important that those interviewing the victims, such as the police and solicitors, are aware of these challenges. As stated by Bales & Lize (2007), “[t]he most successful results involve agents with experience in human trafficking cases, who show more sensitivity to victims and their needs, and are aware of other sources of information to corroborate evidence”.

The gender of the interviewing officer is also an important factor to consider; for instance, female victims may not feel comfortable divulging explicit details of sexual assault to a male police officer. Similarly, men, who come from a culture with a traditional view of masculinity, may not want to admit to their victimization to a female interviewer (UNODC, 2008, p.177). However, it is important that such assumptions are not made and the victim should be consulted as to their preferences. For instance, one interviewee (Interviewee 2, 19<sup>th</sup> July 2012) recounted a case where a female victim, deriving from a patriarchal society where the most senior positions within the police were taken by men, felt that she was not being taken seriously as she was interviewed by a female officer.

**b. The use of interpreters**

The majority of those trafficked into the UK will not have English as their first language and the use of an interpreter in interviews may be necessary. The responsibility for appointing an interpreter for prosecution witnesses lies with the Criminal Prosecution Service (CPS), although the police will often recruit on their behalf. For obvious reasons, the interpreter plays a vital role in obtaining victim testimony and the Office for Criminal Justice Reform (2007) sets out expansive guidelines on their appropriate use. Poor interpreting can result in a “distortion of instructions, confusion, inaccuracy ... and seemingly internal contradictions” (Kaur, in Chandran, 2011, p.106). In their ‘Human Trafficking and Smuggling’ (2012) guidelines, the CPS recommends that when selecting an interviewer consideration must be given to “issues such as gender, political orientation or affiliation, regional

origins and cultural background of the interpreter”. In human trafficking cases, safety considerations when selecting interpreters must be addressed, specifically that the interpreter has no links with the trafficker(s) and can be trusted to maintain confidentiality for the client.<sup>40</sup>

Interviewees added that the interpreter must have the victim’s first language as their own and they must be fully briefed and prepared for, and comfortable with interpreting, the types of experiences they are likely to hear (Interviewee 2, 19<sup>th</sup> July 2012). Finding such translators who speak minority languages, such as the ‘Edo’ language spoken in Nigeria, can sometimes prove difficult due a limited pool of accredited translators within the UK (*ibid*, 19th July 2012). There have also been instances where difficulties have arisen when the interpreter, from the same community and culture as the victim, refused to translate when the victim spoke about witchcraft, such as Juju, due to a shared fear of its power. Again, assumptions shouldn’t be made; the victim must be consulted to ensure they are comfortable with the interpreter provided.

### **c. Witness protection**

Under Articles 24 and 25 of the UN Convention Against Organised Crime (UNGA, 2001), State parties are obligated to provide “effective protection as well as assistance to victims and witnesses of crime”. The measures should protect the witnesses from threats, intimidation or bodily injury, with a full witness protection programme to be put in place as a last resort (UNODC, 2012). Trafficking victims are likely to be classed as ‘intimidated witnesses’ as defined Section 17 of the Youth Justice and Criminal Evidence Act 1999 (YJCEA).<sup>41</sup> Those who have been subjected to sexual exploitation will automatically fall within this category (under Section 17(4)). As intimidated witnesses they will be eligible for ‘special measures’ throughout the criminal trial, which include providing evidence via a pre-recorded interview or live-link (see MOJ, 2011), using screens so that the witness cannot see the defendant, and clearing the public gallery so they may give their evidence in

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<sup>40</sup> Further considerations when using interpreters in human trafficking cases are explored by Kaur (in Chandran, 2011, p.106).

<sup>41</sup> “... as those suffering from fear or distress in relation to testifying in the case”.

private (CPS, 2012*b*). Although eligible, the decision as to whether to grant these special measures will ultimately lie with the court, depending on whether these measures are likely to maximise the quality of the witness's evidence.

Additional measures available to protect the victim include pre-court familiarisation visits, escorts to and from court, and separate waiting areas. Under section 46 of the YJCEA (1999) the CPS can request reporting restrictions to restrict media coverage to prevent the witness's identity being revealed, pseudonyms can be used for witness statements to maintain anonymity, and under section 32 of the Criminal Justice Act 1988, in cases where the victim wishes to remain in their home country, the prosecutor can request that the witness give evidence via a video link from abroad (CPS, 2012, *p.20*). Again, it is at the court's discretion as to whether these requests are granted.

Agreeing to testify against their trafficker(s) can be risky for those trafficked, both in terms of their physical safety, as well as their emotional and psychological well-being. These two risk factors are in no way discrete; the degree to which the victim feels protected from retaliation from their trafficker will undoubtedly have an impact on their emotional well-being. This will, in turn, have an impact on their involvement in the prosecution case. If the police are unable to protect the witness from intimidation or actual physical harm, they may recant their testimony or, in the worst case, be physically prevented from acting as a witness.

The protection afforded to trafficked individuals in the UK who act as witnesses was not criticised by interviewees<sup>42</sup> and the implementation of a full witness protection programme was rarely necessary in their experience.<sup>43</sup> However two protection issues were highlighted. Firstly, traffickers will often target family members back home for intimidation or physical harm as a way to interfere with the witness, rather than targeting the victim directly. The UK can contact the authorities in the home country to inform them of the situation and request for measures to be taken to protect the family, but the protection afforded will be dependent on the willingness

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<sup>42</sup> Although faults were identified in an evaluation undertaken by the Home Office (2006) on the use and effectiveness of special measures.

<sup>43</sup> Interviewee 3 (20<sup>th</sup> July 2012) commented that the trafficker(s) were in fact unlikely to try to find the victim due to fears of police arrest, instead preferring to move on to recruiting their next victim.

of the authorities overseas to cooperate (the relationship the UK has with this country will have an impact), as well as the availability of the necessary resources.

Secondly, in terms of UK court procedures, one former police officer (Interviewee 5, 1<sup>st</sup> August 2012) felt it was “utterly illogical...that trafficking victims, who were often “victim[s] of multiple rapes, threats to kill and multiple acts of violence”, were still made to provide testimony in court<sup>44</sup>, when domestic violence cases could still proceed without the victim having to testify in court (known as ‘victimless prosecutions’). The interviewee noted that since these ‘victim-less’ prosecutions were introduced the number of successful prosecutions for domestic violence crimes had increased, suggesting that the same could be the case in trafficking prosecutions.

### *iii. Implications for Prosecutions*

As victim testimony is crucial for securing successful convictions in human trafficking cases, the care and support that victims receive as witnesses must be of paramount concern. Although unnecessary for those victims who already have the right to reside in the UK, the minimum one year DLR period afforded to those who act as witnesses can provide a degree of stability and greater ease of access to UK support providers over a longer time period. This DLR period simultaneously allows the UK authorities greater ease of access to the victim in order to undertake interviews and collect evidence.

NGOs which provide support play an important role in informing victims of their options, which will include assisting the police in their investigations. It is therefore imperative that NGO staff have a comprehensive understanding of police and judicial procedures, as well as the potential risks for the victims, so that victims are able to make informed and independent choices. Good working relationships between NGOs, the police and legal professionals involved in the case not only facilitate this

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<sup>44</sup> Section 9 of the Criminal Justice Act (1967) does allow for the victim to provide only a written statement, thus preventing them from being questioned by the defence in court. However this can only be used when the evidence presented by the witness is not in doubt, which will almost never be the case in trafficking cases.

learning but also foster trust. This, in turn, leads to greater collaborative working to ensure the needs of the victims are met.

The use of trained and appropriate interviewing officers and interpreters is fundamental to obtaining accurate and comprehensive testimony. However, the wider support measures put in place outside of the interviewing room, and even the court room, will be of equal importance. A victim whose needs are ignored and who feels unsafe, at any stage of the criminal case, will likely not provide evidence or will recant their testimony at a later stage. In the worst case scenario, if the police and NGOs fail to adequately support and protect the victim throughout the criminal process they may choose to return to their trafficker, be in danger of physical harm or may be silenced through fear.

## VI. UK POLICING OF HUMAN TRAFFICKING: INVESTIGATIONS AND OPERATIONS

### *i. Specialist Police Units*

In March 2007 the Metropolitan Police established an Anti-Trafficking Unit, funded by the Home Office's Reflex Project<sup>45</sup>; a team of eleven detectives working solely on human trafficking investigations. Due to a lack of government funding the team was disbanded in March 2010 and in its place a 'Human Exploitation and Organised Crime Unit' formed within the 'Clubs and Vice Unit'<sup>46</sup>, which then became a Specialist Crime Unit known as 'Specialist Crime Directorate 9' (SCD9) (and subsequently SC&O<sup>47</sup> 9). The decision to shut down the specialised Anti-Trafficking Unit in 2010 was met with widespread concern (see, for instance, Honeyball, 2009; BBC, 2009). The charity sector was particularly vocal about the "hugely detrimental impact" (Denise Marshall, the Chief Executive of the Poppy Project, in Williams, 2008) the unit's closure would have due to the loss of specialised knowledge and detectives who were skilled in not only investigating trafficking crimes but also understanding the needs of victims. The decision to move the work into the Clubs and Vice Unit was also criticised:

*"The decision to relegate trafficking from the responsibility of a specialist team to that of a unit also in charge of policing organised immigration crime, prostitution, pornography, casinos and club violence, will inevitably result in trafficking becoming less of a priority."*

(Anti-Slavery International, 2010)

There was also concern expressed that the Clubs and Vice unit had experience of trafficking for sexual exploitation but not for forced labour or domestic servitude, and as their previous remit was to tackle nuisance brothels, the new unit would see all sex work as suspect (Boff, 2012, p.12). Similarly, since its inception, worries about the unit's broad remit have been raised;

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<sup>45</sup> Project Reflex was set up by the then government in 2001 as a multi-agency initiative to collect information on and tackle organised immigration crime (Hansard, 2012, p.17).

<sup>46</sup> An Operational Command Unit within the Metropolitan Police service.

<sup>47</sup> Specialist Crime & Operations

*“[The unit’s] remit takes in not only trafficking, but a range of other street problems...vice, kerb crawling, casino fraud, money laundering and obscene publications, which ...are massive problems in their own right. One wonders whether the other problems are crowding out trafficking.”*

(Mark Field, MP, in Boff, 2012, p.12)

Despite being heralded as a “centre of excellence” by the London Mayor’s Office (Greater London Authority, 2012) in the area of tackling human trafficking crimes, prosecution rates for human trafficking are still low and have in fact fallen since 2009.<sup>48</sup> Although not conclusive, the former police officers interviewed supported the idea that the fall in human trafficking prosecutions was a consequence of the closure of the anti-trafficking unit. Interviewee 2 (19<sup>th</sup> July 2012) also commented that police were now “going for lesser crimes” such as ‘Controlling Prostitution for Gain’ (under Section 53 of the Sexual Offences Act 2003) rather than attempting to secure convictions for human trafficking crimes, due to the difficulties investigating the latter crimes pose (see Section *iii* below). However, doing so may cause further harm to the victim as;

*“Perpetrators convicted of lesser offences than trafficking receive comparatively short sentences and are sometimes released from prison even before their victim’s immigration status has been determined, let alone before the victim has had the time to safely re-establish her/himself in the UK or their home country.”*

(Home Affairs Committee, 2008).

## **ii. Police Operations**

The UK has undertaken a number of operations to tackle human trafficking, the most notable arguably being Operation Pentameter, Operation Pentameter II and Operation Golf.<sup>49</sup> Operation Pentameter, carried out between February and May 2006, was a nationwide policing operation involving 55 police forces in the UK as

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<sup>48</sup> There were 16 prosecutions for human trafficking in 2010, compared with 21 in 2006, 23 in 2007, 24 in 2008 and 25 in 2009 (Hansard, 2012, p. 10).

<sup>49</sup> Other police operations include Operation Paladin, Operation Girder and Operation Caddy. See Chandran, 2011, p. 356-382.



well as SOCA, the CPS and certain NGOs, such as the Poppy project. Its aims were to raise awareness of trafficking, identify victims and the scale of the problem, and improve national intelligence (Hansard, 2012, p.18). Throughout the operational phase 84 trafficking victims were identified and 134 persons charged (Gloucestershire Constabulary, 2006, p.1).<sup>50</sup>

Operation Pentameter II, described as a “victim focused operation” by the Association of Chief Police Officers (Hansard, 2012, p.19) was launched on the 3<sup>rd</sup> October 2007 with the aim of disrupting those who engage in trafficking for sexual exploitation in the UK. Through this operation, 167 victims were identified, 528 criminals arrested and more than £500,000 worth of cash recovered. Both operations were publicly heralded as successes by the then Home Secretary, Jacqui Smith, who commented that the operation was an excellent example of partnership working (Police Oracle, 2008). However, the former police officers interviewed were critical of the operations stating that they were “full of mistakes” and were only “quasi-intelligence led” (Interviewee 3, 20<sup>th</sup> July 2012), there was a lack of training for officers involved (Interviewee 4, 25<sup>th</sup> July 2012), and that the brothel raids undertaken served to reinforce the police’s image as “oppressor” and alienated sex workers (Interviewee 2, 19<sup>th</sup> July 2012). Having said this, it was felt that the operations, particularly Pentameter I, provided a great deal of learning, helped to raise awareness of human trafficking (Interviewee 2), and have resulted in subsequent brothel raids being more intelligence-led (Interviewee 3).

Operation Golf, established in April 2007, was the UK’s (and Europe’s) first Joint Investigation<sup>51</sup> (JIT) funded by the European Commission under the Freedom, Security and Justice ‘ISEC’<sup>52</sup> fund, to focus on human trafficking. Following a significant rise in theft and pickpocketing crimes committed by Romanian nationals in the London Borough of Westminster, the JIT was between the MPS and the

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<sup>50</sup> Following Operation Pentameter, the UKHTC was established as a central coordination and information hub, acting as a repository for intelligence and also tasked with providing specialist advice to police forces (Home Office, 2011).

<sup>51</sup> Under Article 13 of the European Convention on Mutual Legal Assistance in Criminal Matters of 29th May 2000 (Council of Europe, 2000) and/or the Council Framework Decision of 13th June 2002 (Council of Europe, 2002), a JIT can be created by two or more members states, which allows the authorities in these two states to formally collaborate on the investigations of trans-national crimes.

<sup>52</sup> ‘Prevention and Fight Against Crime’

Romanian National Police (RNP) to tackle the issue of child trafficking by a Romanian Roma criminal group. Through investigations undertaken by the RNP it was uncovered that 1,087 children had been trafficked out of the Romanian town of Tanderei over a four-year period by an organised criminal gang and were being made to beg and steal in a number of European countries. As part of the JIT, investigations and arrest operations were undertaken in both Romania and the UK (under the unique powers of the JIT, UK police had full investigative and search powers within Romania, and vice versa). The Romanian officers seized a substantial amount of weaponry, gold, money and property belonging to the criminal gang and the UK secured 71 convictions of members of the Romanian criminal gang, including for human trafficking, money laundering and benefit fraud. The operation concluded in December 2010 with over 80 per cent of the UK-based gang members imprisoned, thus curtailing the gang's ability to continue operating in London (Gravett & Carswell, in Chandran, 2011, p. 382).<sup>53</sup>

Such targeted police operations, if built on accurate intelligence and carefully planned, can clearly have positive implications for prosecution rates for trafficking crimes. However, such operations are hugely resource-intensive and securing funding for UK-based operations such as Operation Pentameter at a time when the UK police forces is facing a 20 per cent budget cuts (HMIC, 2012) may be unrealistic. However, as discussed below in section (iv)(3) below European funding sources may provide a stopgap solution.

**iii. *Barriers to successful prosecutions***

*“Investigating, prosecuting and convicting perpetrators of all types of organised crime are difficult- more so for a hidden crime with confused and cowed victims like human trafficking.”*

(Home Affairs Committee, 2008, p.17)

Human traffickers are notoriously difficult to convict, as the UK's prosecution rates will attest to. The main barriers to successful prosecutions, as described by those interviewed, are discussed below.

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<sup>53</sup> See Chandran, 2011, p. 369-382 for a detailed analysis of Operation Golf.

**a. Obtaining Victim Testimony**

Obtaining victim testimony as evidence of the trafficking crime is vital for the prosecution case. As discussed in Chapter V, securing victim cooperation can be challenging as victims are often extremely fearful of testifying against their traffickers and, even if they agree to cooperate, may recant their testimony at a later stage adequate support and protection not be provided.

**b. Lack of knowledge of trafficking issues**

Being London-based and with a limited number of staff, SC&O9 lack the capacity to investigate all human trafficking cases throughout the UK, or even in London alone. Therefore the responsibility for investigating human trafficking cases will also fall to local forces. In addition, uniformed police officers will often be the ones to first encounter trafficking victims, whether in raids, on patrol or in police stations and therefore must have an awareness of human trafficking and the characteristics of a trafficking victim. This is particularly important in cases where a trafficking victim has been forced to undertake criminal activities as part of their exploitation.<sup>54</sup> There is currently a mandatory human trafficking e-learning package for UK Border Agency and Border Force staff but for the police, “training is a matter for individual forces” (Hansard, 2012c), which has resulted in inconsistent knowledge levels across forces.

**c. Lack of resources**

The UK police force are currently experiencing severe cuts following the government’s announcement in October 2010 that central funding from the Home Office would be reduced by 20 per cent between March 2011 and March 2015 (HMIC, 2012). This has resulted in a loss of 17,600 police jobs to date, with a further 5,800 to go within the next three years (Guardian, 2012). As a result, individual

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<sup>54</sup> Again, see Chandran, 2011, p. 395-426 for current legal guidance on the issue of non-criminalisation of trafficking victims.

officers will be asked in future to take on more tasks and responsibility at a time when they are already overstretched (Interviewee 2, 19<sup>th</sup> July 2012). With a cut in funding, less money will be available to undertake investigations of human trafficking crimes, an area which will have to compete for resources with other crimes, such as terrorism, which are perhaps higher on the political agenda.

#### **d. Acquiring international cooperation**

In order to build a case it is usually necessary<sup>55</sup> for the police, SOCA and CPS prosecutors to work with the authorities abroad to obtain evidence (CPS, 2011, p. 13-14). If the victim was trafficked from or through an EU member state, Eurojust<sup>56</sup> can assist with the investigations by facilitating the exchange of information. However, as one interviewee explained, the level of cooperation achieved will differ between countries and between cases, which could be due to the relationship the UK has with that country<sup>57</sup>, the levels of police corruption or to the resources the authorities in the source country have available.

#### **iv. Recommendations**

##### **1. Mandatory and improved training**

Training should be made compulsory for all frontline police staff that may potentially encounter victims of trafficking or be involved in cases for human trafficking crimes. Police officers should be trained on human trafficking trends, understanding victimisation and trauma, protocols and techniques for interviewing victims, techniques for gathering evidence and an understanding of the type of evidence to collect, amongst other things (Clawson *et al.*, 2008).

##### **2. Specialised Human Trafficking Police Unit**

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<sup>55</sup> Exceptions may occur when an individual has been internally trafficked.

<sup>56</sup> Created in 2002, Eurojust consists of a permanent network of 27 prosecutors, one from each EU member state, tasked with facilitating cross-border investigations and prosecutions.

<sup>57</sup> Eastern European countries are usually highly cooperative in investigations, whereas the authorities in African countries tend to be less so, in Interviewee 2's experience.

The comparative success of the anti-trafficking unit, disbanded in 2010, next to the current SC&O9 unit in prosecuting human trafficking crimes highlights the need for a specialised human trafficking team. The specialised team should be moved away from the ‘Clubs & Vice Unit’ and should focus solely on human trafficking crimes (Interviewee 2, 19<sup>th</sup> July 2012). The detectives who form the team will need a “special mix of skills; the detective skills to deal with the organised criminal gangs who do the trafficking and also the ‘soft’ skills needed to work with the victims” (*ibid*, 19<sup>th</sup> July 2012). As well as conducting investigations and collaborating with authorities overseas, the team would be able to provide information and tactical advice to other police forces across the UK when needed, a role which the UKHTC currently holds.<sup>58</sup>

### **3. Overcoming resourcing issues**

In light of the budget cuts the UK forces are currently facing, the police may need to apply for European funding in order to undertake future human trafficking investigations, specifically JITs, such as that used in Operation Golf. A JIT can be established by an EU member state<sup>59</sup> when the investigation has a cross-border dimension (Europol, 2012), and although at least two or more EU member states must agree, a JIT can also involve the authorities from non EU member states.<sup>60</sup> As mentioned previously, under JIT legislation, members can undertake investigations within the other states that form the JIT (i.e. UK police within, for instance, Romania), in accordance with the law of the Member State in which they operate. Working in source countries is not without its challenges, such as those faced in overcoming language barriers, becoming accustomed to local practices and working within the confines of the source country’s national legislation (Interviewee 5, 1<sup>st</sup> August 2012). However, a JIT allows for a greater degree of communication and sharing of intelligence between investigative teams, and a spread of best practice.

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<sup>58</sup> Interviewee 5 discussed an interesting idea of establishing a ‘rapid response’ team; an independent organisation consisting of a range of professionals (police, solicitors, border staff etc.) with an array of skill sets who can be deployed to assist frontline workers who encounter victims (or suspected victims) of trafficking.

<sup>59</sup> Eurojust may also make an official request to the CAs in a member state to set up a JIT.

<sup>60</sup> Europol, the European Union law enforcement agency, may also assist in the investigation.

European Commission funding could potentially be used to pay for these future JITs. The Commission's ISEC programme, which funds projects focussing on crime prevention, law enforcement and victim support projects, has a budget of approximately €135 million for 2013. Between 2014 and 2020 the commission's proposed budget for Home Affairs is €10.9 Billion. Interviewee 5 (1<sup>st</sup> August 2012) noted that the UK are particularly poor at bidding for European Funding and, with only a few joint investigations undertaken to date, have not yet taken full advantage of the JIT legislation.<sup>61</sup> The funding provided by the European Commission may prove invaluable in these times of austerity and may help keep human trafficking on the UK's, and Europe's, policing agenda.

**v. *Other initiatives which may facilitate prosecutions***

**a. Awareness-raising campaigns**

Campaigns, such as the UKHTC's 'Blue Blindfold' campaign<sup>62</sup> which target the general public, as well as frontline workers (such as social workers, health service workers and travel industry workers) on the issue of human trafficking<sup>63</sup> may help increase the number of victims identified, and this may in turn increase the number of traffickers brought to justice. There have also been campaigns (such as the one undertaken by Stop the Traffik and the MPS (BBC, 2011b)) which directly target trafficking victims and provide freephone numbers for them to call for support. Campaigns undertaken in source countries to educate people on the dangers of human trafficking may not necessarily facilitate prosecutions in the UK but may lead to a reduction in those that fall victim.

**b. National Crime Agency (NCA)**

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<sup>61</sup> SOCA, although responsible for investigating trans-national crime, have never signed a JIT.

<sup>62</sup> See the 'Blue Blindfold' campaign webpage (2012).

<sup>63</sup> Including information on signs to identify potential victims, and the organisations which they can contact if they encounter such an individual.

The NCA, established under the Crime and Courts Bill (2012), will become operational in 2013 and will have distinct units for organised crime, border policing and economic crime. Its focus will be on “disrupting criminal networks abroad...awareness raising in source countries... and work[ing] with international law enforcement partners and UK partners, such as the UKBA to prevent the importation of serious criminality” (Home Office, 2011, *para.* 39) into the UK. The NCA is also set to act as a central intelligence hub with information collected from the debriefing of victims and traffickers, to increase understanding of how and why people become trafficking victims (*ibid*, *para.* 51). Although it is yet to be seen what impact the NCA will have, there is potential that could improve UK security and facilitate prosecutions of trafficking crimes.

## VII. CONCLUSION

With the input of frontline professionals, this research aimed to provide a snapshot of the way in which the UK currently investigates and prosecutes human trafficking crimes. The role and treatment of trafficking victims throughout the criminal case was evaluated, to assess whether the UK implements a victim-centred approach to human trafficking and whether this has an impact on prosecutions rates. An overview of current policing measures was also presented, together with a review of some of the UK's past, targeted police operations to tackle human trafficking, and the opportunities available for future policing initiatives.

Initially, in light of the fact that victim testimony is crucial in securing successful prosecutions, the efficacy of the NRM was evaluated. This relatively new identification system (2009) does offer certain benefits, primarily through its 45-day Recovery and Reflection Period, during which victims can access support in the UK to facilitate their recovery. This degree of stability is likely to have a positive impact on the victim's ability to act as a witness and their availability to participate in police interviews as part of the criminal investigation.

However, the flaws in the NRM overshadowed its benefits. The UKBA's role as one of the two CAs in the identification process was criticised, with the organisation's agenda of reducing net immigration resulting in a failure of trafficking victims being identified as such. The low number of positive conclusive grounds decisions, particularly for non-EU nationals referred, supports this claim. The lack of appeal process was also criticised due to the huge implications an incorrect negative decision can have on a victim's life and their future involvement with the UK's judicial system. These flaws in the NRM are likely to lead to a number of trafficking victims 'slipping through the net' and therefore not being afforded the support and human rights protection to which they are entitled. The UK is thus not only failing to meet its obligations under international law but is also losing vital witnesses for the prosecution. Fewer witnesses to testify against traffickers will naturally lead to lower prosecution rates.



The protection and support measures available to victims who assist the police in human trafficking cases were assessed. The granting of a one year DLR period for witnesses, where necessary, is beneficial as it allows victims to access the necessary support services in the UK. The police and legal professionals involved in the case will have greater ease of access to the victims, allowing them to undertake interviews and, through regular contact, gain their trust and build rapport.

A witness who has access to the appropriate care and support is likely to be able to provide more comprehensive testimony, thus the NGOs who support victims play a pivotal role. The quality of the testimony elicited will also be dependent on the support afforded to them by the police, both when they are first encountered and subsequently throughout the investigation, in particular through the provision of trained interviewing officers and interpreters who understand the needs of trafficking victims and the trauma they may have experienced. Measures to protect the victims and their families from intimidation and retaliation from their traffickers, such as physically relocating them and affording them ‘special measures’ in court, should be readily provided not only to protect their physical safety but also their peace of mind. Multi-agency working, which fosters open communication and trust, will facilitate the provision of the highest levels of support and protection for the victim throughout the criminal investigation.

In the final chapter, current policing measures to combat human trafficking were discussed. It was felt that the disbanding of the Anti-Trafficking Unit in 2010 had had a negative impact on the UK’s ability to successfully prosecute trafficking crimes, due to the loss of skilled detectives and specialist knowledge. The falling prosecution rate since 2009 was felt to reflect this. The move of the new ‘Human Exploitation and Organised Crime’ Unit (SC&O9) into ‘Clubs and Vice’ was also met with concern. It was felt that human trafficking would not be sufficiently prioritised in a unit which had such a broad remit and which previously focussed on tackling nuisance brothels.

Human trafficking crimes are notoriously difficult to prosecute, the key barriers being in obtaining victim testimony, securing international cooperation from

authorities overseas, and having sufficient resources and trained police to undertake investigations. The latter barrier being particularly pertinent in this current financial crisis when the police force is facing 20 per cent budget cuts. In future, European Commission funding (from its 'ISEC' programme) may offer a certain reprieve. Successful bids for this funding in the UK would allow for future targeted police operations, including the use of JITs, which have shown to be successful in disrupting criminal networks and increasing prosecution rates when intelligence-led. However, although targeted policing campaigns and specialist policing units may be necessary to increase prosecution rates, of equal importance is a roll-out of a mandatory training package for all frontline police staff, ideally one which includes interaction with a trainer experienced in dealing with human trafficking victims and developed with NGO-input.

In conclusion, the answer to this paper's overarching research question, 'Is a victim-centred approach to human trafficking key to increasing prosecution rates?' must be yes. Such an approach needs to be adopted at every stage of the criminal investigation. At the victim-identification stage, a process which is 'immigration-led' i.e. heavily influenced by the UKBA's current principle agenda of reducing net immigration, is likely to lead to a failure of trafficking victims to be identified as such. This results in a loss of requisite witnesses for the prosecution. Conversely, one which approaches those referred into it as potential victims, first and foremost, and focuses on providing support and stability, is one which will encourage victim cooperation. Similarly, once the victim has agreed to act as a witness their support and protection needs must be met so they feel comfortable and able to recount their experiences in full, and continue to assist the police until case completion.

When considering future policing measures the needs of the victim should be brought to the fore. Police staff, both front-line and specialist detectives, and legal professionals should be trained to have a thorough understanding of the experiences trafficking victims are likely to have faced and the impact this may have had. This understanding should improve the level of sensitivity with which victims are treated, which, in turn, should improve the degree to which they cooperate and the quality of testimony they provide.

Having said this, although a victim-centred approach should be central to the UK's strategy on tackling human trafficking, a rise in prosecution rates is unlikely to be seen unless current resourcing issues are also addressed. The UK would benefit from establishing a human trafficking unit comprising of specialist and experienced detectives working solely on human trafficking crimes, with adequate resources at their disposal to undertake operations to target the criminal trafficking gangs and networks. Without this the UK will be unable to enforce the substantial body of legislation it has in place to prosecute human trafficking crimes, and thus, prosecution rates will not increase.

Word Count: 15,417

## APPENDIX A: INTERVIEWEE CONSENT FORM



Institute of Commonwealth Studies

1. I hereby agree to participate in an interview in connection with research being conducted by Vicky Brotherton for her MA dissertation.
2. I understand that the interview will take up to 45 minutes and that I can withdraw at any stage. In the event that I withdraw from the interview, any tape or notes made of the interview will be either given to me or destroyed, and no transcript will be made of the interview.
3. I understand that interviews are anonymous and any names mentioned in the interview will be changed when the interview is transcribed. Any personal information discussed in the interview, about me or others, which may allow an individual to be identified will be omitted in the write-up.
4. Please tick as appropriate:  
  
 I am happy for the interview to be audio recorded  
  
 I am NOT happy for the interview to be audio recorded and only give my consent for the researcher to take written notes
5. Please tick as appropriate:  
  
 I am happy for the name of the organisation I work for to be mentioned in this dissertation  
  
 I am NOT happy for the name of the organisation I work for to be mentioned in this dissertation
6. I may request that portions of the interview are edited out of the final copy of the transcript.
7. I understand that at the conclusion of this particular study the tape and transcript of the interview will be kept on Vicky Brotherton's computer and

that the completed MA dissertation will be kept for public use by the University of London, Senate House Library.

8. I understand that if I have any further questions about the research I am participating in I can ask the interviewer at any time.
  
9. In addition, if I have questions about the research project or procedures, I know I can contact Dr David Cantor ([David.Cantor@sas.ac.uk](mailto:David.Cantor@sas.ac.uk); Tel: 020 7862 8827), or Professor Phillip Murphy, the Institute of Commonwealth Studies School of Advanced Study, University of London, 2nd Floor, South Block, Senate House, Malet Street, London, WC1E 7HU, Tel.: (0)20 7862 8844.

Interviewer signature: \_\_\_\_\_

Interviewee signature: \_\_\_\_\_

Consent date: \_\_\_/\_\_\_/\_\_\_

Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone number: \_\_\_\_\_

## APPENDIX B: LIST OF INTERVIEWEES

<b>Interviewee</b>	<b>Organisation</b>	<b>Date of Interview(Place)</b>
1	Salvation Army	11.07.2012 (London)
2	Former Police Officer, Metropolitan Police	19.07.2012 (London)
3	Medaille Trust	20.07.2012 (London)
4	Former Police Officer, Metropolitan Police	25.07.2012 (London)
5	Former Police Officer, Metropolitan Police	01.08.2012 (London)
6	Poppy Project	01.08.2012 (London)
7	Hogan Lovells Solicitors	02.08.2012 (London)

## **APPENDIX C: INTERVIEW QUESTIONS**

### **NGO staff members**

1. How does your organisation assist victims of Human Trafficking?
2. How do you support service users through criminal investigations which are aimed at bringing their trafficker(s) to justice?
3. Does your organisation have its own legal team or do you outsource?
4. How do you work in partnership with the police and other organisations involved in the criminal case?
5. What percentage of your service users agree to cooperate with the UK authorities in the criminal investigation to bring their trafficker(s) to justice?
6. In your opinion and experience, is the 45-day 'reflection period' granted as part of the National Referral Mechanism long enough for the service user to recover sufficiently to feel comfortable to aid the authorities?
7. What fears do your service users have in assisting the UK authorities?
8. What protection measures are in place for the service user before, during and after the criminal proceedings?
9. In your opinion, are these sufficient? Could more be done to protect the service user?
10. Have those service users who have assisted the UK authorities during criminal investigations had positive or negative experiences in doing so?
11. What incentives does the service user have for assisting the authorities in the criminal investigation?
12. In your opinion and experience, is it in the best interest of your service users to assist the UK authorities in criminal cases to prosecute their traffickers?

### **Police Questions**

1. What has been your experience of working with trafficking victims in cases to bring their trafficker(s) to justice? How many cases have you been involved in?
2. Is victim testimony crucial to successfully prosecuting trafficking crimes?
3. Aside from victim testimony, what other investigative tools are currently used?
4. What incentives do trafficking victims have for assisting the police in their enquiries to prosecute their trafficker(s)? What are their fears?
5. How do the police support and protect victims of trafficking when they agree to assist the police? In your opinion are police trained sufficiently to recognise and support victims of trafficking?
6. Are these protection measures sufficient? Could more be done to protect and support them? How do you work with NGOs to support them?
7. In the cases you've been involved in have the victims had positive or negative experiences in assisting the police?

8. How could prosecution rates for trafficking crimes be increased? Do the UK police currently have sufficient tools at their disposal to investigate and prosecute trafficking crimes?
9. With prosecution rates so low, is it in the best interest of a trafficking victim to provide evidence against their traffickers?
10. In your opinion, have previous targeted policing campaigns been successful?

### **Legal Professionals**

1. What has been the extent of your experience of working with trafficking victims in criminal cases to bring their trafficker to justice? How many cases have you worked on?
2. Have these been trafficking for sex purposes cases or trafficking for non-sexual purposes? Have you noticed any differences between the different types of trafficking cases you have worked on?
3. How many cases were successful? What sentences did the traffickers receive?
4. To what extent were the victims involved? (Did they provide evidence in court?)
5. How were the victims supported throughout the process and who by?
6. How were they protected? Before, during and after criminal proceedings? In your opinion, are these sufficient? Could more be done to protect the victim?
7. What fears and incentives does your client have for testifying against the trafficker?
8. How do you work with organisations that provide support services to trafficking victims, such as the Poppy Project and the Salvation Army throughout the case?
9. Have your clients who have assisted the UK authorities in bringing their traffickers to justice had positive or negative experiences in doing so?
10. Have any of your service users been financially compensated by the UK? If so, was this as a result of the successful prosecution of their trafficker(s)?



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