



Briefing for Human Trafficking debate

Wednesday 29 February 2012

Introduction

1. Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.
2. Amnesty International welcomes the Scottish Government debate on Human Trafficking, and the opportunity to address important concerns about human rights.

Human trafficking and human rights

3. Amnesty International believes human trafficking is a form of modern day slavery and is in direct contravention of our basic human rights. The Universal Declaration of Human Rights' article 1 states that we are all born free and article 4 states that no-one should be held in slavery or servitude. The fact that human beings (men, women and children) are being trafficked around the world including into Scotland in the 21st century is shameful.
4. Amnesty International has a history of campaigning on trafficking having produced several reports on the issue in Russia, Israel, Kosovo and Indonesia. We were involved in the development of the Council of Europe Convention on Action Against Trafficking in Human Beings or ECAT. Amnesty International UK has been working on trafficking since 2004 and Amnesty Scotland since 2007.

Scotland and Trafficking

5. Amnesty International Scotland produced a ground-breaking report in 2008 called *Scotland's Slaves*¹ which highlighted the prevalence of human trafficking in Scotland and what services exist to support

¹ Amnesty International Scotland (2008) *Scotland's slaves*. Available from: http://www.amnesty.org.uk/uploads/documents/doc_18605.pdf

trafficking victims. It focused on women and girls trafficked into the UK for the purpose of sexual exploitation and domestic servitude.

6. We found that:

- ACPOS estimated that Scotland had 13.5% of the UK's trade in humans despite Scotland having less than 10% of the UK population
- Cases of trafficking were found in Edinburgh, Glasgow, Dumfries and Galloway, Falkirk and Grangemouth, Stirling and Tayside
- Victims came from Lithuania, Slovakia, Nigeria, China, Estonia, Somalia, Thailand, Guinea and Russia
- During Operation Pentameter 1 (2006) police forces in Scotland visited 25 premises, made 12 arrests and uncovered 15 women – 5 of whom were confirmed as trafficking victims
- During Operation Pentameter 2 (2007-08) over 50 premises were visited and 59 people were dealt with of whom 15 women from Southeast Asia were victims of sexual exploitation. 35 suspects were arrested
- Despite this, at the time we wrote our report, no-one had been convicted of trafficking in Scotland despite 6 people being convicted in Wales and 48 in England.

7. The UK Government's decision to ratify the European Convention Against Trafficking in December 2008 followed three years of intensive lobbying by Amnesty and others was welcomed. However, since the Convention came into force in April 2009, and in the absence of any formal monitoring mechanism, Amnesty partnered with eight other organisations to form the Anti-Trafficking Monitoring Group to analyse implementation with a view to ensuring that victims are receiving a high standard of support and protection. The group's first report, *The Wrong Kind of Victim* found that the current anti-trafficking measures are not 'fit for purpose' especially in relation to identification and prosecutions².

Prosecutions of traffickers in Scotland

8. Since we published Scotland's Slaves in 2008, there has finally been a successful prosecution in Scotland of traffickers; meanwhile, 150 people have been successfully convicted in England and Wales³. There still appears to be a problem in Scotland with successful prosecutions for trafficking offences.
9. Proving a charge of human trafficking is difficult and Amnesty acknowledges the point made by Scotland's Lord Advocate in 2010 that convictions have been made in relation to lower tariff crimes such as immoral earnings or keeping brothels. However, as trafficking convictions continue to be

² Anti-Trafficking Monitoring Group (2010) *The wrong kind of victim*. Available from: http://www.antislavery.org/includes/documents/cm_docs/2010/a/1_atmg_report_for_web.pdf

³ Equality and Human Rights Commission Scotland (2011) *Inquiry into human trafficking in Scotland*. Available from: [http://www.equalityhumanrights.com/uploaded_files/Scotland/Human_Trafficking_in_Scotland/Inquiry_into_human_trafficking_in_scotland-full-report_pdf .pdf](http://www.equalityhumanrights.com/uploaded_files/Scotland/Human_Trafficking_in_Scotland/Inquiry_into_human_trafficking_in_scotland-full-report_pdf.pdf)

made in addition to these lesser offences in England and Wales, more must be done to understand the reasons for the disparity in conviction rates within the UK.

10. For example, in considering why there have been no convictions in Scotland, the Scottish Government report, *Human Trafficking in Scotland, 2007-2008*⁴, suggested that it was probably a combination of *'An unclear intelligence picture; low levels of awareness among the public; absence of witnesses; difficulties with translation during debrief of witnesses; further training needs among police and prosecution professionals; and some difficulties in obtaining warrants, including a perceived tendency for Sheriffs to favour the familiar language of brothel-keeping instead of newer legislation relating to human trafficking'*.
11. This extended conclusion in itself clearly demonstrates the need for more accurate information about the real difficulties faced in prosecuting traffickers. Consequently, if prosecutions are being made for lesser offences it is vital that this is clearly recorded and published together with the reasons why this charge, rather than a trafficking offence, was brought.
12. This will also contribute to determining accurate data on the scale of human trafficking in Scotland and in understanding the multitude of its constituent crimes, as well as in making clear that Scotland is not a soft touch on trafficking. There is a real danger that the poor conviction rate could encourage the perception that trafficking offences will not be rigorously prosecuted in Scotland and discourage victims from coming forward to seek help and redress.
13. The Equal Opportunities Committee's 2010 report into Migration and Trafficking⁵ recommended *'that the Scottish Government and the Crown Office should consider ways of producing and publishing prosecution figures which encompass the range of offences'* under which traffickers are currently prosecuted. However, we were disappointed at the time to note from the Scottish Government's response that it did not intend to make any changes to the way that it currently records and breaks down its published statistics.

Identification of victims and the National Referral Mechanism (NRM)

14. Amnesty International Scotland believes that the National Referral Mechanism (NRM) by which potentially trafficked people are identified and supported is placing more emphasis on their immigration status than the alleged crime committed against them.
15. Article 10 of ECAT relates to the Identification of Victims which should be done by Competent Authorities who should act as the access point to a range of rights intended to help people who have been trafficked such as healthcare, accommodation and legal advice. Without the right identification early on, especially for those with irregular immigration status could mean

⁴ Scottish Government (2009) *Human Trafficking in Scotland, 2007-2008* Available from: <http://www.scotland.gov.uk/Publications/2009/03/31164935/0>

⁵ <http://www.scottish.parliament.uk/parliamentarybusiness/PreviousCommittees/23830.aspx>

immigration detention, criminalisation and removal back to the country of origin without any risk assessment as to the risk of harm or re-trafficking on return.

16. We need to ensure that the welfare of the potential victim is the primary concern and any decision as to asylum is suspended until after it has established whether or not that person has been the victim of trafficking. Amnesty International Scotland has urged the Scottish Government to reconsider the Equal Opportunities Committee's 2010 recommendation to create a Scottish NRM which places the welfare of the individual above all else.
17. The NRM mechanism run by the Home Office set up the competent authority but it excluded front line professionals such as medical practitioners or support service providers in identifying trafficking victims. The Competent Authority is the UK Human Trafficking Agency and UK Border Agency.
18. Indeed, practitioners we interviewed for *Scotland's Slaves* continued to raise concerns about the failure of authorities including immigration, police and social services to identify trafficked people. Amnesty Scotland recommended that the Competent Authority should be based on a multi-agency model to help reduce missed identifications.

No recourse to public funds

19. We found that most adults trafficked into the UK do not have access to public funds – including A8 national and those with work permits. Categories subject to the restriction on public funds are not entitled to benefits which are needed to fund spaces in domestic violence refuges or local authority emergency accommodation for homeless persons. As a result, those that escape their traffickers are vulnerable to destitution, further abuse and exploitation.
20. In December 2009, following a mass lobby, the UK Government launched a three-month pilot scheme to help women who are normally denied help by the "no recourse" rule to access a refuge and seek specialised support. By January 2011, the Home Office informed us that they were close to resolving final legal, practical and financial issues for a permanent solution. They have committed to funding the pilot project on an ongoing basis until April 2012 and thereafter, they intend to apply a permanent solution.

For further information please contact:

Shabnum Mustapha

Programme Director – Scotland

Amnesty International

Shabnum.mustapha@amnesty.org.uk

0131 718 6687 or 07985 033076

www.amnesty.org.uk/scotland