



University of the
West of England

BRISTOL

Jones, J. (2010) *Human trafficking in Wales 2010*. Working Paper.
University of the West of England. Available from: <http://eprints.uwe.ac.uk/14615>

We recommend you cite the published version.

The publisher's URL is:

<http://eprints.uwe.ac.uk/14615/>

Refereed: No

(no note)

Disclaimer

UWE has obtained warranties from all depositors as to their title in the material deposited and as to their right to deposit such material.

UWE makes no representation or warranties of commercial utility, title, or fitness for a particular purpose or any other warranty, express or implied in respect of any material deposited.

UWE makes no representation that the use of the materials will not infringe any patent, copyright, trademark or other property or proprietary rights.

UWE accepts no liability for any infringement of intellectual property rights in any material deposited but will remove such material from public view pending investigation in the event of an allegation of any such infringement.

PLEASE SCROLL DOWN FOR TEXT.

Centre for Legal Research

Working Paper No. 1

Trafficking of Women and Children in Wales 2010

Written by: Jackie Jones
Jackie.Jones@uwe.ac.uk
Bristol Law School, UWE
November 2010

Contents

Chapter 1 - Executive Summary	2
Chapter 2 - An International Picture of Trafficking in Women and Children	4
Chapter 3 - Trafficking in Human Beings in the United Kingdom	8
Chapter 4 - A Picture of Trafficking in Women and Children in Wales	14
Chapter 5 - Recommendations	18
Annex 1	21
Bibliography	27

Chapter 1 - Executive Summary

This Working Paper results from research undertaken while legal advisor to the Cross-Party Working Group on Trafficking in Women and Children of the National Assembly for Wales. The findings were published in the report *Knowing No Boundaries: Local Solutions to an International Crime*. The Working Paper is an earlier version of the draft of this report, finally submitted in Joyce Watson AM's name. Only the main findings, research undertaken by myself and sources available publically are detailed here.

The Cross Party Group was established in the Spring of 2007 with the aim of providing coherent information concerning aspects of trafficking in women and children into, out of and around Wales for the purposes of sexual exploitation in particular as well as for the purposes of forced labour. It also aims to provide some proposals that can be implemented in the context of the devolution settlement. To that end, it acknowledges the policy and legal context in which it works, namely that migration and criminal law making are outside of its current remit. Having said this, there are several recommendations that can be put forward that help fulfil the UK's and Wales' international human rights obligations, most notably, the obligations vis-à-vis children as espoused in the United Nations Convention on the Rights of the Child. The Welsh Assembly Government (WAG) has made the Convention the basis of all policy making for children in Wales.

The Report centres around the lived experience of victims of trafficking, be they men, women or children. It focuses on responses to the victims of trafficking as this is the area in which WAG has the most room to enact effective, rights-based policies. To this end, the Report surveys the literature and legal instruments on trafficking in human beings. Much has been written about trafficking, much more needs to be said about trafficking in Wales. The literature reveals a clear lack of understanding about the issues involved in trafficking. For example, the relationships between trafficking and smuggling, forced labour and irregular work, the link between prostitution and trafficking, the link between marijuana consumption and child forced labour.

There are gaps in knowledge over issues of identification of victims of trafficking and responses once identified as well as specialist provisions of services, despite the recent creation of a refuge for trafficked women in Wales. Gender-specific and child-friendly policy initiatives are at the heart of effective enforcement and protection strategies. These need to be tailored to the particular needs of local communities in Wales. Strategies that reflect the different landscapes – rural, urban, language, cultural – all require co-ordination in a national (Welsh) centre for trafficking. From that multi-agency point, training, awareness-raising, advocacy and many other services can be provided and tailored for the needs of the people in Wales. My recommendations are the following:

Recommendations

1. Awareness raising campaign, through posters, leaflets, internet, Facebook and other means.
2. A People's Forum of Wales where citizens, politicians, practitioners as well as voluntary sector organizations can openly discuss issues surrounding trafficking. In particular the separate but similar issues for both women and children should be a major theme.
3. The provision of specialized training for practitioners in the front line. This should include social services, police, UKBA and the voluntary sector, in line with some of the recommendations of the SOLACE Report in particular concerning identification of victims.
4. The coordinated and regular exchange of information and experience between different actors with specialist knowledge and experience in the field. For example, with TARA Scotland and the POPPY Project, London, Barnardos, the Children's Commissioner for Wales, ECPAT UK, the police, SOCA, Wales Migration Strategy Partnership, and other voluntary sector agencies.

5. The establishment of an all Wales referral procedure protocol for all people who may have been trafficked in Wales.
6. Dedicated funding streams for trafficking. Funded by confiscated moneys from trafficking gangs.
7. The establishment of an all Wales Trafficking Hub. It would be the centre of coordinated action concerning: (1) a multi-agency approach dedicated to helping the victims of trafficking (2) the coordination of relevant training for professionals (3) the creation, implementation and monitoring of the all Wales referral protocols, procedures and practices for women and children (4) the centre for information gathering and sharing for all relevant agencies, including the police. The Hub should have a Director, who's main task would be to oversee the effective management of the Hub and the implementation of local solutions (policies, strategies, protocols and the like) in Wales, as well as coordination with other UK agencies and central government.

Chapter 2 - An International Picture of Trafficking in Women and Children

Trafficking in human beings is a major problem today, both in the European Union and beyond.

Morten Kjærum, Director European Union Agency for Fundamental Rights,
Child Trafficking in the EU

The United Nations estimates that each year over 12 million people are trafficked world-wide. The Not-for-Sale campaign believes that it is 27 million per year (<http://www.notforsalecampaign.org>). The United Nations assesses that each year around 2 million girls between age 5 and 15 are brought into the sex industry. According to Interpol the revenue generated from trafficking is around \$19 billion annually.

These statistics do not include practices of 'disguised/hidden trafficking.' They include the internet bride trade or sex tourism where the demand travels to poor countries, primarily in the South and East and is facilitated by the Internet. Disguised or hidden trafficking is estimated to be worth around \$1 billion-dollars a year. The best estimate therefore is that trafficking provides an income of around \$20 billion per year to organized gangs, individual traffickers and family-run businesses.

The vast majority of trafficking victims, around 80%, are women and girls. Of these, the majority, around 70%, are trafficked for purposes of sexual exploitation. Women and girls trafficked for labour exploitation frequently encounter and endure sexual violence. Trafficking therefore is facilitated by, manifests, and promotes, gender and race-based discrimination. This is an important aspect of understanding and fighting human slavery as this will inform the responses to slavery.

The global economic crisis has contributed to an increase in the demand side of human trafficking. In February 2009 the UN Office on Drugs and Crime published its second global trends in trafficking in persons report. It stated that the worldwide rise in trafficking can be traced to a growing demand for cheap goods and services, with more business going underground in order to avoid taxes and unions. This will likely mean more and more use of forced, cheap, and child labour by multinational companies. There is therefore a human rights – a common humanity – imperative to do even more in times of crises to protect the most vulnerable in the world.

Trafficking is not a recent phenomenon. Abolitionists in the last two centuries challenged both race-based and sex slavery. Decades of organizing and activism bore fruit in five UN Human Rights Conventions: from the Convention Against Slavery (1926) to the Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others (the 1949 Convention). The European Union (EU) is becoming more active in enacting legislation specifically dealing with trafficking both in human beings in general and children in particular (see recent Fundamental Rights Agency for Fundamental Rights Report Child Trafficking in the EU, July 2009).

United Nations Palermo Protocol of 2000

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, contains the first internationally agreed upon definition of human trafficking. Section 3 states:

"Trafficking in persons" is the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation...

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The consent of a victim of trafficking to the intended exploitation ... shall be irrelevant where any of the means set forth in [above] have been used. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set [above]. "Child" shall mean any person under eighteen years of age.

The Palermo Protocol was signed by the UK in 2000 and ratified on 9 February 2006. It prioritizes trafficking in women and children. The Protocol provides assistance and protection to victims and seeks to prevent trafficking through international cooperation and information sharing. The Protocol's definition of trafficking does not require movement of the victim across borders, international or otherwise. This is an important aspect of trafficking because many children in particular are trafficked within the United Kingdom to serve as domestic slaves, beggars or drug harvesters.

Council of Europe Convention on Action against Trafficking in Human Beings

The 2005 Convention was ratified by the UK on 17 December 2008 and came into force on 1 April 2009.

Its objectives are three fold:

- (1) to prevent and combat trafficking in human beings and guarantee gender equality;
- (2) to protect the human rights of the victims of trafficking, to design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality and ensuring an effective investigation and prosecution of trafficking; and
- (3) to promote international cooperation on action against trafficking in human beings.

The Convention is victim-focused, meaning that the UK is committed to providing certain minimum safeguards for the victims of trafficking. In particular, the Convention recognizes the difficult task of identifying a person as having been trafficked. This is not just in terms of the silence of the victim herself, but also because the victim or her family may well have been threatened with death if they reveal their circumstances. It takes time for a victim to have the confidence to come forward to tell the story of how she has been trafficked. This is particularly the case for children. The Council of Europe Convention provides that whilst the assessment is taking place, the person concerned is designated as a trafficked person and able to access certain support and protection in the place they have been found. In that case, any criminal justice or immigration issues must be put on hold until the outcome of the assessment is finalised. In addition, the Council of Europe Convention provides special measures for children who have been trafficked (see below for further details and annex for relevant Convention articles).

The United Nations Convention on the Rights of the Child and Optional Protocol

The UN Convention on the Rights of the Child 1989 was ratified by the UK in 1991. The Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography was ratified by the UK Government in February 2009. It requires States Parties to ensure that their criminal laws prohibit and punish:

Offering, delivering or accepting, by whatever means, a child for the purpose of . . . engagement of the child in forced labour;

Offering, obtaining, procuring or providing a child for child prostitution; or

Producing, distributing, disseminating, importing, exporting, offering, selling or possessing . . . child pornography.

This Convention therefore covers child soldiers – often snatched from their villages, made drug-dependent and forced to shoot people they know. The girl soldiers are often used for sex by their captors. Child soldiers can be as young as four. The Protocol also covers using children for prostitution and sexual images, as well as forced labour.

The Council of Europe *Convention on the Prevention of Children against Sexual Exploitation and Sexual Abuse of 2007* has received few ratifications and relatively few signatures.

European Union enactments

The European Union has taken action in respect of trafficking in human beings since the 1990s. The main legal instrument used for this purpose has been Council Decisions. They therefore do not carry the same legal obligations on member states as directives or regulations. Nevertheless, the Brussels Declaration (Council Framework Decision on combating trafficking in human beings 2002 (2002/629/JHA), the Council Framework Decision of 2003 on combating sexual exploitation of children and child pornography (2004/68/JHA) as well as the proposals for Council Decisions of 2009 (Proposal for Council Framework Decision on preventing and combating trafficking in human beings and protecting victims COM 2009/136 (which will repeal the 2002 Decision) and Proposal for a Council Framework Decision on combating sexual abuse, sexual exploitation of children and child pornography COM 2009/135 (repealing the 2004 Decision) alongside the European Parliament Resolutions on trafficking and an expert group on trafficking have meant that the issue is moving up the political agenda. This is partly based on the common immigration strategies being developed and the fight against organized crime in the European Union. In addition, Article 5 of the EU Charter of Fundamental Rights states that 'no one shall be held in slavery or servitude, or be required to perform forced or compulsory labour.' Article 5(3) outlaws trafficking in human beings. It is therefore firmly placed within the human rights agenda of the European Union.

The 2009 report by the EU Agency for Fundamental Rights entitled *Child Trafficking in the EU – Challenges, perspectives and good practices*, makes the point that there is no uniform definition of child trafficking that operates throughout the European Union, with many member states having no formal age assessment policy in place. This feeds into the 'wide-spread' disappearance of children from shelters with unknown destinations. The Report found that member states under-use criminal laws for prosecuting child traffickers. Indeed, in 'five member states no final convictions were issued in the period 2000-2007.' This is an extremely worrying trend and appears to be replicated in the UK, both in terms of children going missing from care (in Wales) and low conviction rates.

Trafficking and Smuggling distinguished

The smuggling of persons usually occurs with the consent of the person being smuggled. Although this may be the case for trafficked persons it is less likely. In addition, the biggest difference is that for smuggling, the relationship with the smuggler *ends at the destination*. Not so with trafficking. A trafficker will coerce or exploit the trafficked person *once at the destination*. People smuggling is a criminal matter with a migration dimension. Trafficking is a violation of human rights over and above the migration and criminal issues. In most cases, the trafficked individuals have no real choice over whether they can leave or whether they can stop the criminal activity they are being made to do. It is therefore distinguishable from most other activities seen as criminal behaviour.

Sex Trafficking and Demand

The demand generated by buyers of commercial sex for "exotic" unconditionally available young women and girls provides the economic incentive for international sex trafficking. There is growing consensus that addressing demand is key to the prevention of human trafficking.

In October 2004 the UN Commission on Human Rights created the new position of Special Rapporteur on Trafficking in Persons. Sigma Huda, a Bangladeshi human rights lawyer and women's rights advocate, was appointed on October 2004. In her first report, she called for action against the buyers of sexual services "since it is the demand for sexual exploitation that promotes trafficking." In her report the Special Rapporteur analyses the link between trafficking and demand and prostitution and trafficking:

"For the most part, prostitution . . . Usually does satisfy the elements of [the Protocol's definition of] trafficking. It is rare that one finds a case in which the path to prostitution . . . [does] not involve, at the very least, an abuse of power and or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity, and poverty."

Addressing the concern of prostitution and trafficking has led Sweden to enact laws that criminalise men who pay for sex. This law has seen a decrease in the number of street prostitutes but has not seen an end to trafficking. The UK has enacted similar laws. Large sporting events, like the Football World Cup increase the demand for sex and thus dramatically increase the number of women and children trafficked specifically to service spectators. Laws criminalising demand were a preventative measure for the Winter Olympic Games 2010 held near Vancouver, British Columbia. The Summer 2012 Games are being held in the UK. There is a real concern that the number of women and children being trafficked into and around the UK will jump significantly in order to meet the increase in demand for sex from prostitutes.

Forced Labour Issues

The European Court of Human Rights has interpreted “forced labour” as comprising two elements – involuntariness and an unjustifiable or oppressive character. Subsequent case-law adopts as a starting point the ILO (International Labour Organization) definition:

“All work or service which is exacted from any person under the menace of any penalty and for which the person has not offered himself voluntarily.”

Forced labour represents a severe violation of human rights and a restriction on human freedom. The ILO published a new report into forced labour in May 2009. It tries to assess the economic cost of forced labour around the globe. The global financial crisis has resulted in an upward trend in trafficking for the purposes of forced labour.

Some of the key findings of Cost of Coercion report are:

- the most prominent examples of the global forced labour are: slavery and abduction for labour; agriculture-based forced labour in rural areas; compulsory work on public projects; bonded labour in South Asia; forced labour exacted by the military – with a special emphasis on “Myanmar” (Burma); and forced labour related to labour.
- Forced labour is present in virtually every country in the world and is increasingly penetrating supply chains of mainstream companies in the formal economy.
- Forced labour is coerced in a number of ways, including psychological (non-physical) coercion; abuse of legal processes (detention without due process); threats of financial penalties (debt bondage); and the confiscation of passports or travel documents.
- An estimated 8.1 million victims of forced labour in the world today are denied more than \$20 billion due to the perpetrators of forced labour. These occur mainly in the developing world (Asia and the Pacific where almost half of forced labour’s costs in the world are being swallowed up).
- Data collection is poor; little progress has been made since 2001 to improve systems of data collection. This is despite the fact that more people are trafficked because of forced labour than for the sex industry. It remains far behind sex trafficking for government actions.

It is very important to differentiate (i) forced labour (working under the threat of the person concerned or someone they associate with being physically punished) from (ii) irregular work. In the UK there is a specific criminal offence relating to forced labour - section 4 of the Asylum and Immigration Treatment of Claimants etc Act 2004. This is fundamentally different to the laws relating to employer sanctions for irregular workers. Keeping this distinction is critical because the ‘trafficking’ discourse is often applied to the facilitation of irregular labour migrants, not just those who are subject to forced labour. If the individual is not a national of the state or does not have an immigration status that permits him or her to work in the country they are in then, should he or she do so, the economic activity will be irregular (if not illegal) and the individual carrying it out at risk of exploitation on account of this.

Chapter 3 - Trafficking in Human Beings in the United Kingdom

Sadly, there are thousands who are trapped in various forms of enslavement, here in our country ... oftentimes young women who are caught up in prostitution. So, we've got to give prosecutors the tools to crack down on these human trafficking networks. Internationally, we've got to speak out. It is a debasement of our common humanity, whenever we see something like that taking place.

President Obama, 9th US Trafficking in Persons Report June 2009

There is a vast library of information that has been gathered on trafficking in women and children for both sexual exploitation and forced labour. It provides an overview of what trafficking – modern slavery – looks like in many parts of the world, including the UK.

Trafficking may occur both inside the UK and across borders.

Internal Trafficking

Internal trafficking means persons (whether or not UK citizens) are moved within the UK for the purposes of sexual exploitation, forced labour or organ removal. Section 58 of the Sexual Offences Act 2003 makes internal trafficking a criminal offence and section 4 of the Asylum and Immigration (Treatment of Claimants) Act 2004 was designed to deal with acts in contravention of Article 4 of the European Convention on Human Rights (slavery or forced labour), trafficking in human organs, and the use of force, threats or deception to induce a person to provide services, or provide another person with benefits of any kind or to enable another person to acquire benefits of any kind, thus taking steps to address trafficking other than trafficking for sexual exploitation. The maximum penalty under section 4 is 14 years. The section applies to acts within the UK and acts outside the UK committed by another person. The UK Borders Act 2007 amends this offence as well as the Sexual Offences Act 2003 so that now acts abroad are also covered.

Trafficking for the purpose of sexual exploitation

Women

The UK is a major destination for trafficked women and girls. In 2003, the Home Office estimated that around 4,000 women in the UK had been trafficked for the purposes of sexual exploitation. The market for human trafficking for sexual exploitation is estimated to be worth around £275m in 2003 (UK Action Plan). Many come from Eastern European countries, including Lithuania, Russia, Albania and the Ukraine; others are from the Far East, South East Asia, South America and Africa. There is an element of race involved in the selection of women and girls to be trafficked into the sex trade. Once they arrive, these girls and women are often sold at auction (sometimes at the airports or ports where they arrive) and are then transferred to massage parlours, brothels and (increasingly) private homes. They are controlled by violence or the threat of violence as well as drugs and are often moved around the country and may be sold or exchanged between a number of different gangs.

The ages at which women and girls are first trafficked vary between 12 and 41 years, although the majority are in their late teens/early twenties. With the enactment of section 145 of the Nationality, Immigration and Asylum Act 2002, the UK government sought for the first time to make trafficking in prostitution a criminal offence and to control the growing sex industry. It was later repealed as it was evident that the immigration issue was the primary focus, thus criminalizing victims of trafficking rather than helping them get out of a coercive situation. The provisions within the Sexual Offences Act 2003 now deal with the same situation.

The POPPY Project, a programme based in London which provides refuge and outreach services for trafficked women, shelter received 293 referrals in 2009, with law enforcement referring the majority of potential victims. However, due to budget restraints and limited capacity, in 2008 only 41 women were able to be accommodated. The others were assisted on an outreach basis with counselling, subsistence allowances, medical treatment, education and training, and legal support. In addition, some of the victims who were not accommodated at the shelter did not meet all of the government's criteria for admission: victims must be over 18; involved in prostitution within three months of referral; willing to cooperate in the prosecution of their traffickers; and must have been trafficked into the UK from abroad. These criteria are therefore of limited help and only a very small number of women can be helped through this service. Services outside of London are even more severely limited despite the fact that research has revealed that trafficking is just as much a rural as well as an urban crime in and around the UK (see below).

Children

Several scoping exercises have been carried out by a wide variety of organizations representing different sectors of service providers. For example, the Child Exploitation and Online Protection (CEOP) Centre undertook a scoping study on behalf of the Home Office and the UK Border Agency in 2007 in order to first make an assessment of the degrees of awareness of the various agencies and their ability to identify potentially trafficked children, collect data and work with other key agencies involved in their care and protection, and secondly, to make an account of the case data and CEOP's assessment of it (*A Scoping Project on Child Trafficking in the UK, 2007*).

Save the Children undertook research in 2006 in Scotland entitled *A Hidden Trade: Child trafficking research in Scotland 2005/6*. In 2007 Barnardo's carried out a scoping exercise on the scale of internal trafficking around the UK. From the evidence gathered in this report it appears that the tactic of moving young people from one location to another in the UK through the method of internal trafficking, is a core technique adopted by many adults who seek to sexually exploit children. For this survey, out of 16 Barnardo's services that responded, 9 had direct knowledge and 6 services had indirect knowledge of young people who had experienced internal trafficking. Only one Barnardo's service had no knowledge of young people being internally trafficked (*A Summary report mapping the scale of internal trafficking in the UK based on a survey of Barnardo's anti-sexual exploitation and missing services*).

In 2004, ECPAT UK published *Cause for Concern*, a research report based on interviews with London social services teams on the issue of child trafficking. This report found that 26 out of 32 London boroughs had concerns about child trafficking. Following the launch of *Cause for Concern*, ECPAT UK began to receive dozens of reports from across the UK about child victims of trafficking. In early 2006, ECPAT UK, with the support of Save the Children's English Programme, set about interviewing social service teams, other statutory agencies and voluntary sector organisations in three regions of England: the north-West (focused on Manchester), the North-East (focused on Newcastle-upon-Tyne) and the Midlands (focusing on Birmingham, Solihul and Coventry). This is the first of the four reports from this investigation.

That report was followed by ECPAT UK's (2007) Report *Rights here, rights now: Recommendations for protecting trafficked children* calling on the Government to ensure there is a comprehensive and coherent national child-rights-based system for children who are victims of trafficking. The report is based on the standards for good practice with respect to the protection of and assistance to trafficked children set out in the UNICEF Guidelines on the Protection of the Child Victims of Trafficking.

It is important that children are not criminalised for something that clearly is outside their control. The Child Exploitation and Online Protection Centre (CEOP) found evidence of children being detained, criminalised and prosecuted for activities connected to having been trafficked. In particular, a number of Vietnamese children (between 10-18 years of age) working in cannabis factories were arrested, charged and remanded in custody. Where bail was set, most of the children were never seen again, having been reported missing from care of Social Services. In the majority of these cases the children were found guilty, being sentenced to between 12 months detention and training order to 42 months in a Young Offenders Institution. After their sentence, they will be sent back home. The children were not treated as victims of circumstances beyond their control. (*A Scoping study into the outcomes for children and young people encountered in cannabis factories in the UK*, CEOP, 2009). In order to try to address this issue, ACPO issued new guidance in 2010 which seeks to prevent children from being criminalised in the future.

There are special difficulties in relation to persons in positions of trust vis-à-vis a child. Section 3(1)(c) of the Palermo Protocol talks about 'abuse of power or of a position of vulnerability' in relation to trafficking in children. What this means in practice has proven to be difficult. Section 4(4)(d) of the 2004 Act criminalises acts whereby a person is induced to undertake an activity where s/he has a mental or physical illness, is young, or has a particular family relationship and a person without those special characteristics would be likely to refuse the request. This is seen as able to capture very young children, or people under a disability, who did not realise they were being asked to do anything. However, it has proved unsuccessful. The section is difficult to use in order to arrest traffickers of very small babies as the case in Islington Crown Court demonstrates. Peace Sandberg was sentenced to 26 months in prison for illegally bringing in a baby bought in Nigeria. She was not prosecuted for trafficking as the definition did not facilitate a conviction. The same is true of other incidences of trafficking not covered by the definition. One example is female egg harvesting as eggs are not organs as defined by the Palermo Protocol. In addition, the statistics from the UK Human Trafficking Centre bear witness to the 'practice' of convicting defendants of other offences, not trafficking. Between October and December 2008 32 per cent and between January and March 2009 38 per cent of defendants were convicted of other offences, with trafficking charges not put. Evidence presented at the Cross-Party Working Group by both South Wales Police and SOCA (Serious Organised Crime Agency) confirms that often the police will use other legislation non-specific to trafficking in order to effect a conviction. A related issue is that there is evidence that where a female or child victim of trafficking is identified as such by the UK Border Agency, their immigration status may be regularized, rather than having to go through the long and arduous procedure of applying for indefinite leave to remain. Whilst this is a positive development, it aids in keeping the true numbers of those who have been trafficked hidden and makes it more difficult to obtain a 'true' picture of the scale of trafficking.

United Kingdom Response to Trafficking in Human Beings

Individual NGOs, local authorities, the police, the devolved governments as well as other charitable organizations have worked and continue to work in this field. For example, the NSPCC has a dedicated child trafficking advice and information line (CTAIL) that is sponsored by Comic Relief and the Home Office. All of these contributions are vital to making progress in the elimination of trafficking in the UK.

The UK government ratified the Council of Europe Convention on 17 December 2008. Its provisions entered into force in the UK on 1 April 2009. In preparation of entry into force, the UK Action Plan on Trafficking was developed in March 2007 (updated in 2008) in conjunction with the Scottish government. It addresses many of the issues in the Council of Europe Convention. For example, it follows the Convention's definition of trafficking as involving the movement of a person by coercion or deception into a situation of exploitation thus distinguishing it from smuggling. The UK Action Plan applies to all forms of trafficking, whether into or out of or around the UK and covers both adults and children. Its aim is to make the UK a hostile environment for human trafficking.

The UK government has set up a UK Human Trafficking Centre (UKHTC) with funding of £5m. It is a multi-agency centre: immigration service and law enforcement, developing victim-centered approach to tackling human trafficking. The UKHTC was transferred to SOCA in April 2010.

In addition, there is a National Referral Mechanism (NRM), which, with the consent of the possible victim of trafficking, has a two stage process of identifying victims of trafficking. First, the victim is identified or comes to the attention of 'first respondents' (for example, police, NGOs, UKBA) who assess the indicator of trafficking to the victim's 'story'. If there are enough indicators, with the consent of the victim (if an adult, no consent is required for a child), they can be referred to the relevant authority depending on the status of the person concerned. Most victims of trafficking will not say they have been trafficked, even if they know what that means or, may not give their consent. The main reason is fear of reprisals on themselves or their families back home.

The UK Action Plan acknowledged the need for more research to be undertaken on trafficking for the purpose of forced labour. It also made the link between trafficking and prostitution and called for a coordinated prostitution/sexual exploitation strategy. It therefore recognises, to some extent, that human trafficking is a form of violence against women and children.

UK National Action Plan key areas are:

1. Prevention

Acknowledges poverty and social exclusion as well as demand are key issues to address.

2. Investigation, law enforcement and prosecution

3. Protection and Assistance to Adult Victims

Between 2003 and 2008 there have been 68 convictions for trafficking; the POPPY project received an additional £2.4m in 2006 to deal with victims of trafficking; POPPY works with other NGOs around the UK to provide hostel beds and training.

4. Child Trafficking – special measures

The Child Exploitation Online Protection Centre (CEOP) and a national free helpline have all been put in place; a short mention is made of children in care, but few suggestions are made.

5. Monitoring

There is no provision for an independent National Rapporteur, rather an Inter-Departmental Ministerial Group (IDMG) on Human Trafficking was set up; progress reports on implementation of the Convention are sent to Ministerial NGO Advisory Group on Human Trafficking.

The measures in the Action Plan are minimum measures. Much more is possible under the Council of Europe Convention to protect victims of trafficking.

There have been two major police operations specifically to tackle trafficking in women and children for the purposes of sexual exploitation in the UK. Operation Pentameter I took place in 2006. Its main purpose was to rescue women who had been trafficked. The Operation successfully rescued dozens of women and children from different massage parlours and brothels around the country. Pentameter II took place in 2007-08 and several dozen women and children were rescued during a six month period.

This type of operation received much publicity and is an initiative, with funding, that could be undertaken in Wales again.

Blue Blindfold Campaign

The UK government has initiated a Blue Blindfold campaign in order to have an internationally-recognized symbol and uniform message that trafficking in human beings can happen in any town, community or even workplace. It targets four main groups in order to raise awareness: the victims of trafficking, the law enforcement community, the general public and key professionals working in the health and social services field (among others) who could identify victims of trafficking at an early stage. The idea behind the campaign is to have one symbol recognized everywhere, a telephone number that can be called regardless of whether a victim or someone who has information is in a transit or destination country. It is hoped that it can help break the cycle of control traffickers manifest over victims.

Convictions

The UK Human Trafficking Centre has started to publish statistics on conviction rates and victim profile. Between October and December 2008 there were nine convictions for trafficking, three for conspiracy to traffick both under sections 57-59 of the Sexual Offences Act 2003, four convictions for forced labour under the Immigration and Asylum Act 2004. Between January and March 2009 there were four convictions and between April to June 2009 there were eight convictions for trafficking under sections 57-59 of the Sexual Offences Act 2003. The number of convictions is minute and very few statistics are available at present.

Trafficking of Women and Children in Wales

Both the number of people prosecuted and the length of sentences awarded are on the increase. In March 2008 the government completed Pentameter II, a large-scale operation aimed at disrupting trafficking networks and rescuing victims. It managed to identify 167 potential trafficking victims, to arrest 528 suspects and seize over £2.5 million worth of assets. Between March 2008 and March 2009 the UK government prosecuted 129 trafficking cases. Twenty-three trafficking offenders were convicted – four of whom were prosecuted for forced labour offenses. This marked a significant increase from ten in the previous year. Sentences ranged from 18 months' to 14 years' imprisonment, with an average sentence of five years. In one instance, a court sentenced six traffickers to a combined total of 52 years for the trafficking and enslavement of a Slovakian teenager for the purpose of sexual exploitation from 2006 until her escape in January 2008. In 2008 a conviction for possessing false identity card with the intention of using it as her own was overturned in the Court of Appeal case of *R v O* ([2008] EWCA Crim 2835) because the person was not identified as a victim of trafficking and the CPS Code of Practice on Human Trafficking and Smuggling was not followed, despite an expert report from the POPPY Project which identified her as a potential victim of trafficking.

Scotland

Case Study - Plakici case

Luan Plakici had trafficked young women, forcing them to work as prostitutes. His activities were discovered after one of his victims escaped and went to the police. Victims were brought back from overseas to give evidence at his trial. He was convicted on 22 December 2003 on fifteen counts of assisting unlawful immigration, living on prostitution, kidnapping, procuring a girl to have unlawful sexual intercourse and incitement to rape.

Plakici was sentenced to 10 years in prison, but following the CPS referring the case to the Attorney General as an example of an 'unduly lenient sentence' the Court of Appeal increased the sentence to 23 years (29 April 2004).

The Scottish Government has undertaken a wide range of initiatives to try to tackle trafficking in Scotland. Since 2004, the Executive has provided funding via its specific Violence Against Women Fund to a pilot project in Glasgow to provide advice and support to women who have been trafficked into Scotland to be sexually exploited and to collate information in order to enhance intelligence and raise awareness among front-line service providers about trafficking. The Criminal Justice (Scotland) Act 2003 provides that the maximum penalty for involvement in trafficking for the purpose of sexual exploitation is 14 years imprisonment on conviction on indictment. The Asylum and Immigration (Treatment of Claimants) Act 2004 provides a similar specific offence of involvement in human trafficking for any other purpose. The maximum penalty on conviction on indictment is also 14 years imprisonment. The Scottish Government works closely with Westminster departments on trafficking as manifested through the co-authorship of the UK National Action Plan on Trafficking.

In 2009 the Scottish Government sponsored report on *Human Trafficking in Scotland 2007/08* detailed that 79 victims of trafficking came in contact with various agencies in Scotland. Many of the victims were kept in private houses or flats. It also detailed the extent of the problem identified with regard to forced labour and the fact that many victims were found working in restaurants or takeaways. Crucially, the Report highlighted the fact that victims' stories often varied – depending on whether they were talking to support agencies or the authorities (such as the police or UKBA). It also noted that it took quite some time to create a reasonable level of trust before the victim would feel confident enough to speak of her experience. Baroness Helena Kennedy QC is currently chairing an investigation into human trafficking for the purposes of sexual exploitation in Scotland.

Legal and Other Assistance to Victims of Trafficking

Helping victims of trafficking access legal avenues to justice, restitution, and other compensation for their suffering is a key element of any effective victim protection strategy. This is particularly the case for those women and children who have been trafficked into the UK or Wales as they will not be familiar with any possible legal remedies or support agencies which might help them. They will have no knowledge of customs, laws, rights or medical treatments available to them. In addition, language will be a major barrier to access to justice, be it legal, advocacy or other assistance. Most victims of trafficking will have no legal papers or passports as these are often taken, kept or destroyed by the traffickers. They will have been told that if they help the authorities they or someone they know and love will suffer the consequences or that the police have been 'bought' by the traffickers so will only send them back to the traffickers who will then kill them. The logical response to such overt coercion, threats of violence and actual violence is to remain silent if asked any questions. It takes substantial time and effort to convince them otherwise. Criminalising or questioning their immigration status in a hostile environment like a police station, an immigration holding area or detention centre (especially for children) will do nothing to prevent trafficking in the future or to help the victim of trafficking.

It is the recognition that the Council of Europe Convention provisions provide a minima of protection for victims of trafficking that needs to be implemented and supported throughout the UK that should mark progress for Wales.

In the *SOLACE Report* the role of local authorities in addressing human trafficking, particularly with regard to victim identification, victim support, prevention of trafficking and repatriation of victims to countries of origin is addressed. This Report is a best practice guide in that it provides guidance by answering the questions what, who, how as well as relevant practice from different parts of the UK and the EU in the key areas mentioned above. It is a very good start to making progress in the fight against trafficking and what practical steps can be taken in Wales within a human rights focused, victim-centred approach.

Chapter 4 - A Picture of Trafficking in Women and Children in Wales

Prostitution and Trafficking

Women fleeing prostitution or trafficking are particularly vulnerable and need to feel confident that there are services in place to support them. Women affected by these issues are often difficult to reach and the problem is largely hidden. As our knowledge and understanding of these issues increases we are better placed to provide safe exit routes for these vulnerable women. We now have small projects in place in South Wales, such as the Diogel Project developed by BAWSO which offers services to support trafficked persons including supported accommodation and counselling, health and psychological assistance. The next step will be to work with partners in North Wales with the aim of making provision available in that area. We will also be supporting the UK Government Human Trafficking Strategy to ensure frontline staff have the right tools and expertise to identify victims of trafficking and offer them appropriate protection and support, bearing in mind the special needs of children.

Carl Sargeant, Minister responsible for Social Justice and Local Government,
The Right to be Safe, 2010, p.13

A picture of trafficking in persons in Wales is slowly emerging through a combination of scoping exercises, reports, studies, multi-agency partnering. However, it remains a rather sketchy picture with many areas left unpainted. For example, it has been assumed that urban areas would be the ones most targeted by trafficking rings. However, SOCA operations in (rural) West Wales and information from the police revealed the emergence of trafficking gangs moving women from Ireland to West Wales for the purposes of sexual exploitation. In addition, seaports are a major concern as little support is currently focused on identifying potential victims of trafficking as they come off the ships/ferries. Furthermore, the report *Bordering on Concern: Child Trafficking in Wales* (Children's Commissioner for Wales, 2009) revealed that rural areas are as vulnerable spaces for children as urban areas.

A major feature of trafficking is that there is still disbelief that trafficking could happen in 'our neighborhood.' That it is something that happens elsewhere, but not in Wales, and certainly not in rural Wales. This myth was shattered in the 2009/2010 trafficking cases found in Pembrokeshire. Shaking this myth is one of the keys to effective change. In order to maximize effectiveness in enforcement and identification local solutions to these issues should be sought that can take into account and react to local issues, rather than be centrally managed all the way in Westminster. For example, the local communities living around the seaports in North and West Wales may be one of the best sources of information to identify 'changes in behaviour.' For example, people coming from outside of the area setting up marijuana farms or brothels in villages. Or a police operation in Gwent that identified 53 properties used for marijuana cultivation in 2007. Having specific information, like poster campaigns, as well as designated local individuals who can be contacted, may increase awareness and reporting. It can also lead to an increasing awareness that the victims of trafficking are not criminals in the common understanding of the term, but have been forced to work in these circumstances and are in need of protection rather than criminalisation. This in turn can lead to an increase in compliance with international human rights standards, including the UN Convention on the Rights of the Child which underpins Welsh Assembly Government policies.

Children

There have been several reports concerning trafficking and sexual exploitation in Wales. The first was undertaken by Barnardo's Cymru in 2005 and again in 2008 and evidenced that children have been and continue to be sexually exploited in Wales. Some are at risk of being trafficked. In 2006 Save the Children reported on separated children being identified as trafficked by local authorities, although it was acknowledged that proof gathering remained a major concern. More work needed to be done on how to identify and what to do with children who may have been trafficked. In 2008 Save the Children published its follow-up report entitled *The Care and Protection of Asylum-Seeker and Trafficked Children in Wales*. That report highlighted the real gaps in practitioner knowledge, problems of identification and limited useful guidance for practitioners in Wales.

The recent Children's Commissioner for Wales Report *Bordering on Concern: Child Trafficking in Wales* (Children's Commissioner for Wales, 2009) revealed that there was evidence of children being trafficked for both sexual exploitation and forced labour into, within and out of Wales, including towns in South Wales. The Report highlighted concern around 45 children, and 32 of these ticked all the high risk categories of being trafficked. What is particularly disturbing in the Report is the fact that so many children were found to be at risk despite the short timeframe of inquiry and the limited geographical area covered. Taking this into account, an estimate for all of Wales would probably reveal three times that number at any given time. This is a realistic number when one takes into account that Wales has four asylum and immigration dispersal areas (Cardiff, Swansea, Newport and Wrexham) and that children have been found to go missing from local authority care. *Bordering on Concern* also found that practitioners were unfamiliar with practices of how to identify children who may have been trafficked. This was despite two recent Wales specific guidance policies: WAG's 2007 guidance on *Safeguarding Children who may have been Trafficked*. It outlines the reasons for child trafficking, the methods used by traffickers, the roles and functions of relevant agencies and procedures practitioners should follow to ensure the safety and well being of children suspected of being trafficked. Cardiff Local Safeguarding Children Board's (LSCB, 2008) *Multi-Agency Protocol for Safeguarding Children Who May Have Been Trafficked* which provides good practice guidance to professionals and volunteers from all agencies to help them effectively safeguard children who are abused and neglected by adults who traffic them into and within the UK for purposes of exploitation. One of the recommendations in *Bordering on Concern, Child Trafficking in Wales* Report was for the Welsh Assembly Government to undertake an audit for relevant training on child trafficking currently available to practitioners. This is now being progressed.

The *Knowing No Boundaries* Report details results from questionnaires sent to all 22 local authorities in Wales, which asked them to provide detailed feedback on: the authorities' experience of trafficking; any protocols/reports/codes of practices they use or have developed; service provision in line with the Council of Europe Convention on Action Against Trafficking in Human Beings; their experience of the 45 day reflection period; experience of internal trafficking; any staff training they have undertaken.

There was great variation in the number of cases dealt with by local authorities. Most authorities (19 responded in total) saw no 'proven' cases of child trafficking (internal, external or children missing from care) in their area. One authority had experience of five cases of child trafficking in the previous twelve months, one reported two cases of child trafficking with the children being taken care of within the authority and another referred three unaccompanied asylum seeking children to the National Centre on Human Trafficking. Three or four authorities reported incidence of child forced labour trafficking, with several Vietnamese children found in cannabis factories, including in rural areas. The responses highlight that the emphasis for the vast majority of authorities is on children, rather than women, with two authorities only specifically mentioning cases of adult females having been internally trafficked for the purposes of sexual exploitation. Clearly, more needs to be done in relation to trafficked adults. In addition, there was a mixed picture of some authorities having very good information and being able to find the relevant information providers, with others not being aware or not feeling the need for specific information. Most referred to the development of an all-Wales child trafficking protocol (see below). The same mixed picture emerged in relation to the availability of training for staff, with some authorities having opportunities and others with none.

It is clear that awareness raising of all aspects of human trafficking among local authorities, practitioners and the public is a key area for any future action in Wales.

Women

In 2007 Amnesty International published *Under the Covers: Trafficking for sexual exploitation in Wales*. The report found evidence of a significant level of human trafficking for sexual exploitation in Wales. It also stated that due to the nature and secrecy of this crime, it was extremely difficult to know the exact scale of human trafficking in Wales (and for the UK). In general, the report found:

- In the past two years 18 women from overseas have been removed from brothels in Wales. Twelve of them have been confirmed as victims of trafficking.
- The women found have been predominantly from the Far East, and aged between 18 and 40
- It is estimated that there are currently about 60 trafficked women working in brothels in Cardiff.

That figure will not decline, especially in light of the evidence from other countries that trafficking for sexual exploitation increases significantly for major sporting events such as international tournaments and the Olympics. Greece legalized prostitution for the Olympics and mega-brothels were installed near the German football stadia during the World Cup. It is therefore highly likely that the Olympics will attract an increase in the number of women and children trafficked for the sex trade and sexually exploited.

Safer Wales 2007 *An Overview of Street Sex Work in Cardiff: Young people and their entry into street sex work – The perpetual cycle “I worms my way back”* reported on the findings of research funded by Cardiff Children and Young People’s Partnership and carried out by Streetlife and Safer Wales project working with and for street prostitutes. The report focused on the needs and lived circumstances of street prostitutes in Central Cardiff, giving a shocking picture of the life of young people on the streets of Cardiff offering their service for as little as £10. It was estimated that some of these women had been trafficked.

In its evidence to the Cross-Party Working Group on Trafficking in Women and Children BAWSO (Black Association of Women Step Out Ltd) stated that it had supported four trafficked women over recent years and had been involved in a number of cases relating to trafficking. It made several recommendations relating to practical solutions to aid victims of trafficking in Wales. These include training provision, exchange of information and experience (for example, with TARA Scotland and the POPPY Project, London), an all Wales referral procedure protocol, dedicated funding streams and awareness-raising campaigns.

WAG Response to Trafficking in Human Beings

The Welsh Assembly Government cannot act in non-devolved matters unless it uses the LCO or Measures procedures first. Relevant non-devolved matters include the making of criminal laws and immigration issues.

The Welsh Assembly Government can and has acted in matters directly related to trafficking issues. It has demonstrated commitment to international human rights standards, issued Guidance, Strategies and Regulations and provided funding for service provision.

WAG adopted the United Nations Convention on the Rights of the Child as the basis of policy making and implementation in Wales. This is a significant step in the recognition of a rights-based culture for children living in Wales, regardless of nationality. The core aims of the commitment can have a significant impact on the type of service provision and protection children can expect when living in Wales – whether they were trafficked into or around Wales. The seven core aims are also evident in the Guidance issued by WAG in April 2008 entitled: *Safeguarding Children Who May have been Trafficked*. Children are also covered in the Welsh Assembly Government Refugee Inclusion Strategy of 2008 as there is growing awareness that unaccompanied asylum-seeking children can be and are the victims of international trafficking gangs. This is acknowledged in the establishment of a new post to deal with refugee children. The Children Advice and Information Worker is placed within the Wales Strategic Migration Partnership Refugee.

In 2009 the then Ministers responsible for Social Justice and Communities, Dr Brian Gibbons AM, announced funding for a refuge in Wales for women who have been trafficked. Hosted by the POPPY Project (managed by Eaves Housing in London) it also receives many referrals from practitioners (including the police) in Wales as it can provide specialist advice and refuge for victims of trafficking. BAWSO and StreetWise are organizations in Wales which have expertise, especially around translation and interpretation services and effective responses to prostitution.

Carl Sargeant AM, Minister responsible for Social Justice and Local Government, published *The Right to be Safe*. It sets out the WAG's integrated strategy for tackling violence against women and girls for the next six years. The Strategy refers to trafficking in a number of places and sets out a time frame for setting up standard protocols for Wales-specific data on charging, prosecutions and convictions of trafficking with ACPO Cymru and the Crown Prosecution Service. Furthermore, WAG, along with other agencies, is currently developing an all-Wales protocol on the identification of child trafficking. It will be based on the Cardiff *Safeguarding Children who may have been Trafficked* protocol. Both developments are significant advances in trying to address trafficking in Wales. They only cover some of the issues. Significantly, as yet no overall strategy for safeguarding victims of trafficking in Wales is being prepared.

Chapter 5 - Recommendations

International Human Rights Treaties that Address Human Trafficking

The root causes of migration and trafficking greatly overlap. The lack of rights afforded to women serves as the primary causative factor at the root of both women's migrations and trafficking in women... By failure to protect and promote women's civil, political, economic and social rights, governments create situations in which trafficking flourishes.

Radhika Coomaraswamy, UN Special Rapporteur on Violence Against Women

It is imperative that any action to eradicate trafficking sits within a human rights framework.

First, human trafficking in any form is a breach of a person's human rights, regardless of background, ethnic origin, sexuality, gender, age or other characteristics.

Secondly, as Harriet Harman MP's sponsored report entitled Not for Sale made clear, there is a direct link between prostitution, sexual exploitation and trafficking. In particular, there is a link between different racial and ethnic backgrounds and advertising women for sex. For example, 'hot blooded South American girl', and other adjectives to describe the person. It is the demand for women/girls with these characteristics which affect the number of women and girls trafficked from particular regions for the purposes of sexual exploitation. The numbers rise and fall with demand for those characteristics. This is a form of racism, reminiscent of Southern USA slave days when slave women were used by their Masters, not just for forced labour, but also for sex.

Thirdly, in order to eradicate human trafficking various strategies can be used. One of these, the one used in the majority of states party to the major international human rights obligations relating to human trafficking, recognize it as a form of gender-based violence. Accordingly, enforcement and prevention strategies sit within the End Violence against Women and Children programmes and agenda. That is the case in Wales, Scotland and England as well as many other countries both in the Commonwealth and Europe (both European Union and Council of Europe member states). In the United Kingdom, the recognition that human trafficking is a gender-based crime means that public bodies have a duty under the public sector duty on gender to ensure effective and long term action is taken to address the issue. Possible breaches of that duty are judicially reviewable. In 2008 the Equality and Human Rights Commission published a major study on human rights and its impact on, *inter alia*, service provision. It makes the point that

Unnecessary human suffering and a higher risk of litigation arise when there is an insufficient understanding and knowledge of human rights and the Human Rights Act.

(http://www.equalityhumanrights.com/uploaded_files/hri_report.pdf).

One of the features of trafficking is the constant evolution of routes traffickers use in order to coerce individuals into the sex industry or forced labour. It is therefore vital to have up-to-date information that can be used by a variety of agencies to address the issues. This is problematic as Sykiotou (2007) states that traffickers now have an effective and unrestricted means of recruiting their victims. Online employment agencies (particularly those ostensibly seeking fashion or artists' models) and marriage agencies can all be lures for victims. Internet chat-rooms, too, can be used to "befriend" potential victims. For young people, the danger of falling into the traffickers' clutches has increased substantially. Seemingly innocent Web sites, such as social networking sites – extended versions of the Web discussion sites, open to all surfers – can be highly dangerous as well. The internet has been a major facilitator in the dissemination of child pornography but equally a police mechanism to catch those involved in the distribution of pornography. The internet therefore can be seen as both a means of recruitment as well as a means for enforcement. What is clear is that there is an urgent need for coordinated action, including protocols, that addresses the use of the internet for the purposes of slavery. This should be by means of a national (Welsh) centre or as part of a UK-wide response.

Criminal Law Enforcement

Clearly law enforcement is an area in need of consideration. At the moment Wales is unable to create criminal laws by means of measures or Legislative Competency Orders. That is not fatal to taking significant steps to reducing, eradicating and helping in a global response to trafficking. As the table below demonstrates, laws on trafficking, whether within the context of organized crime or stand-alone offences of trafficking are currently under prosecuted all over the world. It may be that the criminal law is too blunt an instrument in the fight against traffickers and a more focused response is needed.

Global Prosecution Data

Year	Prosecutions	Convictions	New or amended Legislation
2003	7,992	2,815	24
2004	6,885	3,025	39
2005	6,178	4,379	40
2006	5,808	3,160	21
2007	5,682 (490)	3,427 (326)	28

The numbers in parentheses are those of labour trafficking prosecutions and convictions.

Source: US 9th Trafficking in Human Beings Report June 2009, p. 47.

According to the Immigration Law Practitioners' Association since 1998 a total of 17 employers have been successfully prosecuted under section 8 Asylum and Immigration Act 1998 in the UK. In the two years for which figures were available (2004 and 2005) a total of 5111 'illegal workers' had been detected.

No figures for Wales are available yet. However, Wales-specific standard protocols are currently being developed by the Crown Prosecution Service and ACPO Cymru. Once these are made available, a clearer picture will emerge.

In 2008 the Immigration (Restrictions on Employment) Order 2007 came into force. This is a new regime combining prosecutions and civil penalties for employers who employ people who do not have permission to work in the UK. The March 2007 Border and Immigration Agency Enforcement Strategy includes the statement that the Agency will 'develop regional partnerships with workplace enforcement teams from HM Revenue and Customs, Dept of Work and Pensions and Dept of Trade and Industry, to track down and punish unscrupulous bosses who exploit the system.' This is a potential area where the Welsh Assembly may be able to seek specific Welsh solutions that take into account the devolution settlement and constitutional arrangements. This may be facilitated by a Welsh National Trafficking Coordination Hub that is part of a network of Border and Immigration Agency compliance teams as well as other agencies that support the victims of trafficking dealing with helping licensed employers and academic institutions operating a Points-based system to comply with the requirements as well as advising what local authority services are available to individuals caught in this situation. In Wales this applies in particular to children whether trafficked from care for the purposes of forced labour or otherwise. It is therefore very evident that, even within a non-devolved context, the Welsh Assembly Government can play a major role in the fight against modern-day slavery.

A Victim-centred, Human Rights Approach for Wales

As outlined above, there is a need to place the protection and safeguards as well as the eradication of human trafficking within a human rights context. That is because the rights analysis focussed the responses to human trafficking on the victim of the trafficking rather than on the perpetrators. The victims are the ones that are in need of the most attention – both for human trafficking for the purposes of sexual exploitation and forced labour. Migration and criminal responses alone will not be enough, indeed, only scratch the surface of the issues. A response in Wales that addresses the needs of the persons most affected by trafficking will fulfil the commitment to equality, dignity, human rights and sustainability as espoused in the Welsh Constitution (Government of Wales Act 1998 and 2006). To this end, the financing of victim-centred programmes in Wales for the victims of trafficking found in Wales is crucial. Funding has been allocated to a refuge for trafficking victims found in Wales. That progress is to be commended. However, there is a serious underfunding of accommodation for victims of trafficking as well as for other support services. It is here that Wales can follow the acknowledged good practice of Scotland. This will not affect the devolution settlement.

Recommendations

- 1) Awareness raising campaign, through posters, leaflets, internet, Facebook and other means.
- 2) A People's Forum of Wales where citizens, politicians, practitioners as well as voluntary sector organizations can openly discuss issues surrounding trafficking.
- 3) The provision of specialized training for practitioners in the front line. This should include social services, police, UKBA and the voluntary sector, in line with some of the recommendations of the SOLACE Report in particular concerning identification of victims.
- 4) The coordinated and regular exchange of information and experience between different actors with specialist knowledge and experience in the field. For example, with TARA Scotland and the POPPY Project, London, the police, SOCA, Wales Migration Strategy Partnership, voluntary sector agencies.
- 5) The establishment of an all Wales referral procedure protocol for all people who may have been trafficked in Wales.
- 6) Dedicated funding streams for trafficking. Funded by confiscated moneys from trafficking gangs.
- 7) The establishment of an all Wales Trafficking Hub. It would be the centre of coordinated action concerning: (1) a multi-agency approach dedicated to helping the victims of trafficking (2) the coordination of relevant training for professionals (3) the creation, implementation and monitoring of the all Wales referral protocols for both women and children (4) the centre for information gathering and sharing for all relevant agencies, including the police. The Hub should have a Director, who's main task would be to oversee the effective management of the Hub and the implementation of local solutions (policies, strategies, protocols and the like) in Wales, as well as coordination with other UK agencies and central government.

Annex I

Council of Europe Convention on Action against Trafficking in Human Beings (2005): Key articles and overview:

Article 1 The purposes of this Convention

- 1 The purposes of this Convention are:
 - to prevent and combat trafficking in human beings, while guaranteeing gender equality;
 - to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution;
 - to promote international cooperation on action against trafficking in human beings.
- 2 In order to ensure effective implementation of its provisions by the Parties, this Convention sets up a specific monitoring mechanism.

Article 4 – Definitions

For the purposes of this Convention:

- a "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b The consent of a victim of "trafficking in human beings" to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in human beings" even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d "Child" shall mean any person under eighteen years of age;
- e "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.

Chapter II – Prevention, co-operation and other measures

Article 5 – Prevention of trafficking in human beings

- 1 Each Party shall take measures to establish or strengthen national co-ordination between the various bodies responsible for preventing and combating trafficking in human beings.
- 2 Each Party shall establish and/or strengthen effective policies and programmes to prevent trafficking in human beings, by such means as: research, information, awareness raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking and for professionals concerned with trafficking in human beings.

- 3 Each Party shall promote a Human Rights-based approach and shall use gender mainstreaming and a child-sensitive approach in the development, implementation and assessment of all the policies and programmes referred to in paragraph 2.
- 4 Each Party shall take appropriate measures, as may be necessary, to enable migration to take place legally, in particular through dissemination of accurate information by relevant offices, on the conditions enabling the legal entry in and stay on its territory.
- 5 Each Party shall take specific measures to reduce children's vulnerability to trafficking, notably by creating a protective environment for them.
- 6 Measures established in accordance with this article shall involve, where appropriate, nongovernmental organisations, other relevant organisations and other elements of civil society committed to the prevention of trafficking in human beings and victim protection or assistance.

Article 6 – Measures to discourage the demand

To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures including:

- a research on best practices, methods and strategies;
- b raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;
- c target information campaigns involving, as appropriate, inter alia, public authorities and policy makers;
- d preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.

Article 7 – Border measures

Article 8 – Security and control of documents

Article 9 – Legitimacy and validity of documents

Chapter III – Measures to protect and promote the rights of victims, guaranteeing gender equality

Article 10 - Identification of the victims

- 1 Each Party shall provide its competent authorities with persons who are trained and qualified in preventing and combating trafficking in human beings, in identifying and helping victims, including children, and shall ensure that the different authorities collaborate with each other as well as with relevant support organisations, so that victims can be identified in a procedure duly taking into account the special situation of women and child victims and, in appropriate cases, issued with residence permits under the conditions provided for in Article 14 of the present Convention.
- 2 Each Party shall adopt such legislative or other measures as may be necessary to identify victims as appropriate in collaboration with other Parties and relevant support organisations.

Each Party shall ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim of an offence provided for in Article 18 of this Convention has been completed by the competent authorities and shall likewise ensure that that person receives the assistance provided for in Article 12, paragraphs 1 and 2.

3. When the age of the victim is uncertain and there are reasons to believe that the victim is a child, he or she shall be presumed to be a child and shall be accorded special protection measures pending verification of his/her age.
4. As soon as an unaccompanied child is identified as a victim, each Party shall:
 - a provide for representation of the child by a legal guardian, organisation or authority which shall act in the best interests of that child;
 - b take the necessary steps to establish his/her identity and nationality;
 - c make every effort to locate his/her family when this is in the best interests of the child.

Article 11 – Protection of private life

- 1 Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).
- 2 Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.
- 3 Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

Article 12 – Assistance to victims

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least a standards of living capable of ensuring their subsistence, through such measures as:
 - a appropriate and secure accommodation, psychological and material assistance;
 - b access to emergency medical treatment;
 - c translation and interpretation services, when appropriate;
 - d counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
 - e assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
 - f access to education for children.
- 2 Each Party shall take due account of the victim's safety and protection needs.
- 3 In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.
- 4 Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.
- 5 Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

- 6 Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.
- 7 For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.

Article 13 – Recovery and reflection period

- 1 Each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim.

Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorise the persons concerned to stay in their territory.

- 2 During this period, the persons referred to in paragraph 1 of this Article shall be entitled to the measures contained in Article 12, paragraphs 1 and 2.
- 3 The Parties are not bound to observe this period if grounds of public order prevent it or if it is found that victim status is being claimed improperly.

Article 14 – Residence permit

- 1 Each Party shall issue a renewable residence permit to victims, in one or other of the two following situations or in both:
 - a the competent authority considers that their stay is necessary owing to their personal situation;
 - b the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.
- 2 The residence permit for child victims, when legally necessary, shall be issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions.
- 3 The non-renewal or withdrawal of a residence permit is subject to the conditions provided for by the internal law of the Party.
- 4 If a victim submits an application for another kind of residence permit, the Party concerned shall take into account that he or she holds, or has held, a residence permit in conformity with paragraph 1.
- 5 Having regard to the obligations of Parties to which Article 40 of this Convention refers, each Party shall ensure that granting of a permit according to this provision shall be without prejudice to the right to seek and enjoy asylum.

Article 15 – Compensation and legal redress

Article 16 – Repatriation and return of victims

Article 17 – Gender equality

Chapter IV – Substantive criminal law

Article 18 – Criminalisation of trafficking in human beings

Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct contained in article 4 of this Convention, when committed intentionally.

Article 19 – Criminalisation of the use of services of a victim

Article 20 - Criminalisation of acts relating to travel or identity documents

Article 21 – Attempt and aiding or abetting

Article 22 – Corporate liability

Article 23 – Sanctions and measures

Article 24 – Aggravating circumstances

Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:

- a the offence deliberately or by gross negligence endangered the life of the victim;
- b the offence was committed against a child;
- c the offence was committed by a public official in the performance of her/his duties;
- d the offence was committed within the framework of a criminal organisation.

Article 25 - Previous convictions

Article 26 – Non-punishment provision

Chapter V – Investigation, prosecution and procedural law

Article 27 - Ex parte and ex officio applications

Article 28 – Protection of victims, witnesses and collaborators with the judicial authorities

Article 29 – Specialised authorities and co-ordinating bodies

Article 30 – Court proceedings

Article 31 – Jurisdiction

Chapter VI – International co-operation and co-operation with civil society

Article 32 – General principles and measures for international co-operation

Article 33 - Measures relating to endangered or missing persons

Article 34 – Information

Article 35 – Co-operation with civil society

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

Chapter VII – Monitoring mechanism

Article 36 – Group of experts on action against trafficking in human beings

Article 37 – Committee of the Parties

Article 38 – Procedure

Chapter VIII – Relationship with other international instruments

Article 39 – Relationship with the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against transnational organised crime

Article 40 – Relationship with other international instruments

Bibliography

- Amnesty International. (2007). 'Under the Covers: Trafficking for sexual exploitation in Wales.
- Arthur, S. & Morran, R. (2006). 'A Hidden Trade: Child trafficking research in Scotland 2005/6'. Save the Children.
- Askola, H. (2007). 'Legal Responses to Trafficking in Women for Sexual Exploitation in the EU'. Hart Publishing.
- BAWSO. (2008) 'Human Trafficking in Wales.'
- Beddoe, C. (2007). 'Missing Out: A study of child trafficking in the North-West, North-East and West Midlands'. London: ECPAT UK.
- Cardiff Local Safeguarding Children Board (LSCB). (2008). 'Multi-Agency Protocol for Safeguarding Children Who May Have Been Trafficked'.
- CEOP. (2009). 'A Scoping study into the outcomes for children and young people encountered in cannabis factories in the UK.'
- Children's Commissioner for Wales. (2009). *Bordering on Concern* (online at: <http://www.childcomwales.org.uk/uploads/publications/130.pdf>)
- Clutton, S. & Coles, L. (2008). 'Child Sexual Exploitation in Wales: 3 Years on.' Barnardos Cymru.
- Council Framework Decision on preventing and combating trafficking in human beings and protecting victims (COM (2009) 136). Luxembourg.
- Council of Europe. (2005). 'Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report. (online at <http://www.homeoffice.gov.uk/documents/human-traffick-action-plan>)
- Council of Europe. (2005). 'CETS No 197 – Council of Europe Convention on Action against Trafficking in Human Beings, 16.V.2005.'
- Council of Europe. (2007). 'Handbook for Parliamentarians: The Council of Europe Convention on Action against Trafficking in Human Beings'.
- Council of Europe. Trafficking in Human Beings home page: http://www.coe.int/t/DG2/TRAFFICKING/campaign/default_en.asp
- Reference Texts of other international online documents at: http://www.coe.int/t/dg2/trafficking/campaign/Docs/OrOrg/EUdocs_en.asp
- Coy, M. Kelly, L. & Foord, J. (2007). 'Maps of Gaps: The postcode lottery of violence against women'. London: EVAW.
- Harman, H. (commissioned). (2008). 'Women Not for Sale: A report on advertising women in small ads in local newspapers'. London: Government Equalities Office. HM Government.
- House of Lords House of Commons Joint Committee on Human Rights. (2007). 'Human Trafficking Update: Twenty-first report of session 2006-07 [HL Paper 179. HC 1056]'.
- Home Office. Scottish Executive. (2007). 'UK Action Plan on Tackling Human Trafficking'.
- Kapoor, A. (2007). 'A Scoping Project on Child Trafficking in the UK'. London: Child Exploitation and Online Protection (CEOP) Centre on behalf of the Home Office and the Border Immigration Agency.
- Kelly, E. (2002). 'Journeys of Jeopardy: A Review of Research on Trafficking in Women and Children in Europe'. International Organization for Migration (IOM).
- Knowing No Boundaries: Local Solutions to an International Crime (2010). J Jones
- Lawson, R. and Koffeman, N. (2009) 'Child Trafficking in the European Union – Challenges, perspectives and good practices'. European Union Agency for Fundamental Rights, Luxembourg.
- Lebov, K. (2009). 'Human Trafficking in Scotland 2007/08.' The Scottish Government.
- Marie, A. & Skidmore, P. (2007). 'A Summary report mapping the scale of internal trafficking in the UK based on a survey of Barnardo's anti-sexual exploitation and missing services'. Barnardo's

Matts, L & Dr Hall, T. (2007). 'An Overview of Street Sex Work in Cardiff: Young people and their entry into street sex work – The perpetual cycle "I worms my way back"'. Safer Wales.

Save the Children (2008). 'Agenda for Action – The care and Protection of Asylum-seeker and Trafficked Children in Wales

Sillen, J. & Beddoe, C. (2007). 'Rights here, rights now: Recommendations for protecting trafficked children'. ECPAT UK and UNICEF.

SOLACE Report. (2009). The Role of Local Authorities in Addressing Human Trafficking. SOLACE Study Group.

<http://www.newport.gov.uk/stellent/groups/public/documents/report/cont372291.pdf>

Somerset, C. (2004). 'A Cause for Concern: London Social Services and Child Trafficking.' ECPAT UK.

Sykiotou, A. P. (2007). 'Trafficking in human beings: Internet recruitment'. Council of Europe.

UN.GIFT (United Nations Global Initiative to Fight Human Trafficking) brochure

US Department of State. (June 2009). 'Trafficking in Persons Report'. Available at <http://www.state.gov/documents/organization/123357.pdf>

Van den Anker, C. & and Doornik, J. (ed). (2006). 'Trafficking and Women's rights'. Palgrave.

WAG. (2008). 'Safeguarding Children who may have been Trafficked Guidance.'

WAG. (2008). 'Refugee Inclusion Strategy Wales.'

Westminster Hall debate. (2008). 'Enforced Criminal Activity (Children)'. Wednesday 6 February 2008.

Centre for Legal Research

Director: Professor Ed Cape
University of the West of England
Frenchay Campus
Coldharbour Lane
Frenchay
Bristol BS16 1QY

Telephone 0117 32 82899

Facsimile 0117 32 82268

www.uwe.ac.uk