

# Combating trafficking in the UK

by Wendy Young and Diana Quick

*While the full extent of trafficking to the UK is not known, combating it has become a national priority in order to protect the victims, prosecute traffickers and raise public awareness to prevent it happening. Policy-makers must realise that trafficking cannot be addressed through the lens of migration control.*

Because migration is such a controversial issue in the UK, the approach to trafficking has at times overemphasised law enforcement at the expense of the protection needs of the victim. The UK has tended to address trafficking as an issue of migration control rather than as a human rights problem. This has led to the deportation of trafficking victims, especially women, without adequate consideration of their safety and well-being. The threat of deportation has jeopardised the effective prosecution of traffickers, as it affects the quality and availability of testimony from victims. Tightening restrictions on the asylum system which threaten the ability of refugees to access protection have pandered to popular anti-asylum sentiments without adequately considering the obligation of the UK under international, regional and domestic law to protect those with a well-founded fear of persecution.

The UK government is making efforts to legislate against trafficking. The Nationality, Immigration and Asylum Act 2002 created for the first time an offence of trafficking – but only in cases of prostitution. The Sexual Offences Act 2003 incorporated this provision and expanded it to address other forms of sexual exploitation. It also criminalised the commercial sexual exploitation of children, the penalty for which can be life imprisonment. The Asylum and Immigration Act 2004 extended the definition of trafficking under UK law beyond sexual abuses to other forms of abuses, such as forced labour and domestic servitude.

However, there are concerns that implementation of anti-traffic-

ing laws may be hindered by the increasing restrictions on access to the UK asylum system. Ironically, the more states make it difficult for asylum seekers to access their territories, the more likely it is that individuals may be at risk of trafficking, as those desperate to leave their home countries will become susceptible to the force, fraud and coercion commonly employed by traffickers.

## Right to protection

UK efforts to combat trafficking have not been unified into an effective, comprehensive strategy that prevents, deters and punishes trafficking and has the rights and protection of trafficked persons as its centrepiece. Only a few trafficked persons have been granted refugee status or humanitarian protection in the UK on the basis of their trafficking experience – and then, in almost all cases, only when they successfully appealed. The lack of an explicit form of protection for trafficked persons under UK law, combined with the barriers to asylum and humanitarian protection, means that trafficked persons remain vulnerable to deportation. There have been reports of trafficked persons being returned to their home countries before they even had a chance to apply for asylum or humanitarian protection.

Asylum is critical to the protection of trafficked persons. They may have been trafficked because they were attempting to escape a situation of armed conflict or human rights abuses that would qualify them for refugee status, regardless of their trafficking experience.

The fact that they were trafficked could render them eligible for asylum if they would be at risk of being re-trafficked if returned and if their home country is unable or unwilling to help them.

The prosecution of traffickers apprehended by the UK authorities has brought mixed results. Insufficient protection is offered to trafficked persons who cooperate with prosecutors and there is no guarantee of anonymity when a victim testifies in court.

Unlike the US, the Netherlands, Italy and certain other destination countries, the UK has not adopted legal mechanisms to ensure the protection of trafficking victims, either on a short- or long-term basis. There is no provision for a reflection period during which the victim can recover from her trafficking experience and make decisions about the future, nor is there any specific relief from deportation tailored to trafficking victims that would allow them to remain temporarily or permanently in the UK if return is not viable. Instead, a trafficked person must apply for asylum which, if granted, allows the person to remain in the UK permanently, or humanitarian protection or discretionary leave which are provided for defined periods.

## *Asylum is critical to the protection of trafficked persons*

Social service providers and law enforcement agencies are concerned that children are trafficked to the UK in order for adults to exploit them to access welfare benefits, claiming them as their own children. These children reportedly are often severely neglected while being thus used. They may be denied education and health care and are vulnerable to other forms of exploitation, such as forced domestic work. There is no programme in the UK designed to address the specific protection

needs of trafficked children. There are serious doubts that mainstream child welfare services in the UK can fill the void.

The UK maintains a 'white list' of countries it believes respect human rights. NGOs working with trafficked persons point out that several of the countries on the white list are also source countries in the trafficking context. A Romanian woman trafficked to the UK was told to return home to appeal her denial of asylum because Romania is on the white list. There have also been a number of cases of re-trafficked women from Albania – also on the list.

Trafficking victims may have to defend themselves against criminal charges for having used false documents to enter the UK. This approach ignores the reality that traffickers often force their victims to use false documentation in order to avoid detection at ports of entry. UK law does not provide a waiver that would exempt trafficked persons from document fraud charges. This provision may not only undermine the ability of trafficked persons to gain asylum but may also inhibit their willingness to present themselves to authorities.

*The burden of offering protection and assistance should not fall solely to local authorities but be centrally funded.*

A safe house programme funded by the UK Home Office has restrictive criteria. To obtain access to mental and physical health services, education and skills training provided by the Poppy Project, women must prove they have been trafficked for sex work – despite the fact that UK law has now acknowledged other forms of trafficking as a crime – and have engaged in prostitution in the UK. After four weeks, continued support is conditional on cooperating with prosecutions.

Trafficking will not end, and will probably continue to increase, unless effective strategies are developed that prevent communities

at risk from becoming vulnerable, that protect and assist trafficking victims so that they are safe from retaliation from their traffickers and are not at risk of re-trafficking or other abuses, and that bring the full force of the law against traffickers to send a strong message that those who engage in this crime will be fully prosecuted.

### Recommendations

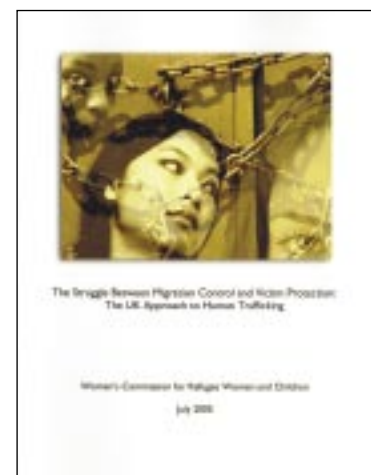
The Women's Commission recommends that:

- Efforts to combat trafficking should centre on the rights and protection of the victim.
- Trafficked persons should never be penalised for the use of false documents and trafficked children never be forced to participate in legal proceedings against their traffickers.
- Protection for trafficked persons should be provided if there are indications that they may be at risk of re-trafficking if returned to their home country, or if they have a well-founded fear of persecution for reasons that meet the refugee definition.
- A short-term reflection period must be provided to give trafficked persons an opportunity to decide what they wish to do next, including whether to cooperate with the authorities and whether to seek asylum in the UK.
- Agencies that may have contact with traffickers or trafficked persons should develop effective information sharing and work on a national strategy to combat trafficking.
- If the UK persists in the development of a safe country list, it must at a minimum allow women and children from such countries full consideration of claims based on gender or age persecution.
- The UK should create short- and long-term residence permits explicitly for the protection of trafficked persons who cannot return safely to their home countries.

- The burden of offering protection and assistance should not fall solely to local authorities but be centrally funded.
- Law enforcement officials must be supported to enhance their capabilities to identify trafficked persons and prosecute traffickers.
- Assets seized from traffickers should be used to support victim protection and assistance programmes.

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Their 2005 report, *The Struggle Between Migration Control and Victim Protection: The UK Approach to Human Trafficking*, is online at [www.womenscommission.org/pdf/UK\\_Trafficking.pdf](http://www.womenscommission.org/pdf/UK_Trafficking.pdf)



### Human smuggling and trafficking resources

See Forced Migration Online's online resource summary at: [www.forcedmigration.org/browse/thematic/humanst.htm](http://www.forcedmigration.org/browse/thematic/humanst.htm) and research guide at: [www.forcedmigration.org/guides/fmo011/](http://www.forcedmigration.org/guides/fmo011/)