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Organised Immigration Crime Team
Specialist Crime 2
Home Office
5th Floor Fry Building
2 Marsham Street
London
SW1 4DP

5th April 2006

Dear Sir/Madam,

Re: Response to “Tackling Human Trafficking – Consultation on Proposals for a UK Action Plan”

I. General

We welcome the opportunity to comment on the Home Office’s plans to tackle human trafficking and in particular its recognition of Government’s responsibility to “develop policies which protect and support vulnerable people and reduce the opportunities for their exploitation”. We support the position of the Experts Group on Trafficking in Human Beings that forced labour is a crucial element of the Protocol, and are pleased that the Home Office has made this central to its plans. We are also pleased that the Home Office recognises that a lack of opportunity and inequality are important factors in trafficking, that “illegality” in terms of immigration status may prevent victims from going to the authorities, and that some Victims of Trafficking (VoT) should be allowed to remain in the UK.



Centre Director: Professor Steven Vertovec

COMPAS is part of The Institute of Social and Cultural Anthropology, University of Oxford



Despite the emphasis placed on the importance of distinguishing between smuggling and trafficking, there is nevertheless a continued confusion between the two. Given this confusion we would urge caution when advancing “factual” statements. In particular we are concerned at the centrality given to the notion of “organised immigration crime”, which is indiscriminately applied to both. If the Home Office is concerned to distinguish between trafficking and smuggling, it must give more consideration to how it imagines “organised immigration crime” is the same or different for both these categories. Similarly “criminalizing illegal employment” is not a specifically anti-trafficking measure and may equally well apply to those who are smuggled. Moreover, trafficking does not have to constitute an immigration offence at all. There are examples of women who have been trafficked from within the EU for instance, whom the current approach would omit.

2. Prevention

More consideration should be given to the issues of debt, which may be owed to employers, recruiters and others in the UK or in the country of origin. Debt may be used to control workers and anti-trafficking responses need to ensure that employers and third parties do not use debt to make unjust or inhumane demands of migrants. This is not only restricted to employers of illegal entrants or those entering with false expectations, and will protect many migrants, both with and without legal status, from abuse and exploitation. The relation between debt, trafficking, exploitation and gross abuse of power is such that we were extremely surprised to see in the Government’s recent Command Paper on the points system the suggestion that “employers and educational institutions might choose to pay the migrant’s application fee in the first instance, claiming it back over time from salary or adding it to overall fees for a course” (para. 22 *A Points-Based System: making Migration Work for Britain*). Such arrangements should not be encouraged or endorsed by governments, as the indebted migrant may become very vulnerable to exploitation.

We are pleased to note that there is attention paid to demand for “forced labour”. This is a welcome development, but it is important to recognise that a focus on demand for labour has different implications depending on the sector and that demand is often for cheap, highly exploitable, controllable labour, not for trafficked people per se.

We would draw your attention to the report *Forced Labour and Migration in the UK* (2005) drawn up by COMPAS and the TUC, which considers forced labour by migrants in the sectors of care, cleaning, construction and agriculture. Employers, clients and other third parties do not demand to have access only to trafficked people, but to people who are powerless and exploitable. Arguments have been advanced with reference to prostitution that it is *demand* that needs to be eliminated in order to prevent trafficking for sexual exploitation. Whatever the merits and demerits of such an approach, it is difficult to apply it straightforwardly to other



sectors – one cannot simply eliminate demand for cheap food in order to prevent forced labour in agriculture, for example.

In particular, discussions of labour standards and labour relations may be highly contentious regarding prostitution, but would certainly be helpful in illuminating the differences between forced labour and extremely poor working conditions. It would facilitate a clearer focus on labour conditions, essential for tackling forced labour. Recent legislation on gangmasters, and the development of the Ethical Trading Initiative that encourages labour users and product sellers to take responsibility for labour conditions may have a significant impact on demand. An extension of such practises and legislation beyond the agricultural sector should be welcomed. This is not simply a law enforcement approach but requires more general education about what is considered socially acceptable by consumers, employers and employment agencies alike.

3. Investigation, law enforcement and prosecution

Again we would emphasise the importance of broadening the approach from one focussed on organised immigration crime. Investigation needs to be conducted into employment/labour situations and not simply into issues to do with border crossing. There are situations of forced labour where migrant workers are not breaking any conditions of stay for instance, particularly when tied by work permits (see above). We note that that the legislative focus is very much on criminal justice, and that compensation for VoT is not mentioned in this consultation. We believe that for very many victims, financial compensation for unpaid labour in abusive conditions would make a significant difference to their lives. It would make people less vulnerable to re-trafficking and offer some dignity in reparation for the abuses they have faced.

4. Victims and domestic workers

It should be noted that the association in popular thought and, until now, in policymaking, between trafficking and sexual prostitution makes the identification of victims of forced labour more problematic. Those in forced labour situations may not want to identify as trafficked victims because of the stigmatisation of those, forced or voluntary, working in commercial sex industry.

Given the specific concern of the consultation with trafficking for forced labour, including domestic service, we were very concerned to hear of the Home Office proposals to change the rules governing migrant domestic workers entering the UK. At the moment this category are free to change employers if they have been exploited or abused, as long as they continue to work in private households, and are eligible for indefinite leave to remain. This rule came into force 1998, and remedied a significant injustice which had brought about considerable suffering. We are appalled to note that the Home Office now proposes to tie domestic workers accompanying their employers to those employers and to grant them only a six month, non-



renewable visa. We cannot see how this is compatible with stated objectives to stamp out trafficking. Indeed it is completely contrary to it.

The advice and support agency, Kalayaan, has detailed figures of the kinds of abuse their clients are subjected to by their first employers. Of 114 migrant domestic workers registering with this organisation in two months, one third reported physical abusing and beatings, and three quarters had experienced shouting, insults, humiliation and threats of deportation. More than half did not have their own rooms. Preventing them from leaving such employers will make this extremely vulnerable group powerless before abusive employers. Abusive employers will have no care for the immigration status of their workers. We would urge the Home Office not to undermine its anti-trafficking initiatives with its immigration policy in this way, and to remember that VoT can also be migrants with legal immigration status

At several points in the consultation document there is a recognition that VoTs may have some choices at certain points in their journeys, and that at those points ensuring that migrants have correct information and are making informed choices is key. However, this has tended to focus on source and transit countries. We would suggest that some consideration should be given to the situation in the UK. How much does lack of opportunity and information *in the UK* give power to traffickers? What are the possibilities *in the UK* for choice and escape? This is an area which perhaps needs further research and reflection.

Finally, given the emphasis on trafficking for forced labour, we would urge the importance of the involvement of trades unions in assisting victims and ensuring that migrant workers in general receive the protection and rights that are their due.

We hope that these comments will be useful to your consultation process and we will be happy to discuss further details with you should this be useful.

With best wishes,

Dr Bridget Anderson
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