SCOTTISH UNIVERSITY INSIGHT INSTITUTE

HUMAN TRAFFICKING: CONCEPTUALISING DEFINITIONS, RESPONSES AND 'WHAT NEEDS TO BE DONE?'

Event Three: March 2013

WHAT NEEDS TO BE DONE?

Introduction
The previous two events of the Scottish University Insight Institute Programme (Human Trafficking: Conceptualising Definitions, Responses and 'What Needs to Be Done'?) have highlighted the challenges of securing multi-agency, national and international agreement on definitions of trafficking, 'effective' practice and 'appropriate' responses to the victims/survivors of trafficking in humans. There is no doubt that this is a highly politicised arena with a flimsy evidence-base on which to base good practice, and fragmented responses to this complex issue. Additionally, piecemeal and partial state responses to the globalised nature of trafficking in humans have undermined and hindered critical dialogue and theoretical analysis of its wider meaning and consequences.

Throughout Events One (October 2012) and Two (December 2012), participants have acknowledged that progress has been made in understanding, and responding to, trafficking in people. However even basic issues (for example definitions of trafficking and victimisation) remain points of controversy within and between nation states. This area is characterised by layers of anti-trafficking legislation making for complexity and fragmentation, with policies that are often out-of-date even before they are implemented. Furthermore, states are generally reluctant to undertake their responsibilities to enforce human rights standards and to ensure that responses to victims/survivors of human trafficking are long-term and holistic.

Challenges
State enforcement of law is often enacted by passing the responsibility of protecting and supporting victims/survivors to NGOs, in practice prioritising short-term responses. This is characterised by shifts away from movements aimed at achieving social change towards 'projects'; both depoliticising the anti-trafficking movement while also limiting responses to short-term projects. Competition for funding is subsequently underscored by the disparity between projects that have short-term welfarist objectives and those which have long-term politically informed goals (such as the abolitionist movement). For many involved in developing responses, it is often difficult to stand back far enough to see the bigger picture. Current data collection for service provision adds little to this challenge; focusing on local practice, immediate responses and limited realities. This can also serve to allow governments to highlight small innovative pockets of practice, while the wider systemic failures are overlooked or ignored; as evident in Scotland. This is particularly the case when the 'problem' is determined as one of global poverty or world migration/immigration.

Political courage is required in order to place responsibility on states (individually and collectively); in contrast to the frequent tendency to hold NGOs responsible for government deficiency and complacency. Additionally, NGOs are often looked to in order to meet ambiguous concepts such as 'minimum standards'. Given the difficulties facing organisations working in this contested area who attempt to do the best they can with often limited resources, there is a reluctance to question existing practices or to raise challenging and politically controversial issues (for example global inequalities, migration/immigration, 'prostitution'/sex work, and/or labour exploitation).

Scotland
In Scotland, these same challenges are evident. Kenny McAskill, the Scottish Justice Secretary, speaking at the launch of the Equality and Human Rights Commission report in November 2011 stated:

We have a collective responsibility to tackling the problem here in Scotland. The nature of this crime is such that no one country or agency acting on its own can tackle it effectively. The key to eradicating it is partnership working - whether that is working at a local level or working with international partners to provide a solution. It is what happens on the ground that makes a difference to the individuals involved, be they victims or traffickers themselves. That is why we will continue to encourage and assist the relevant agencies in the work that they do.
http://www.scotland.gov.uk/News/Releases/2011/11/27115603

Despite this commitment, the Scottish Government has been consistently criticized for lack of strategic leadership in this area. The Government has responded by legislating for trafficking as an aggravated offence; leaving some of the wider strategic difficulties unresolved. Paradoxically, while there is acknowledgement that tackling trafficking in people requires a 'whole society' approach, in practice responses are often 'top-down' rather than 'bottom-up', focused on policy-making and governance. This results in fragmentation and disconnection across systems and a lack of attention to wider processes of globalisation.

Evidence and research
Knowledge of, and responses to, human trafficking are developing continually. As a result, processes, policies and practices are being refined and amended on an ongoing basis. However, there are few comprehensive, long-term evaluations of existing practice on which to base a comparative analysis of 'good' practice. While NGOs in Scotland have consistently attempted to recognise human trafficking as a violation of human rights, and to emphasise the support and protection of victims, this has been hindered by the wider system.

Existing evidence highlights the importance of responding to victims on an individual basis; providing a continuum of comprehensive services based on individual needs rather than categorised by type of exploitation suffered. Ultimately good practice for victims requires a human rights based approach underpinning all aspects of provision, which takes account of gendered and cultural needs. While the basic and short-term needs of victims can be easily identified (i.e. safe and secure accommodation; legal assistance, medical intervention, trauma counselling and mental health services, practical support, other needs as they are identified) in practice, the provision of such needs becomes part of wider political discourses that hinder effective and appropriate responses.

The ability of support services to meet their aims and objectives in the provision of care and support for victims cannot however, take place without examining the wider system as it impacts on the provision of these services. Responses to victims are contextually located within the wider framework of responses to trafficking. While persistent efforts by governmental, NGOs and humanitarian bodies have raised awareness over the years, conflict continues to hinder a unified anti-trafficking effort. Friction among activists, law makers and law enforcement is primarily the result of the different perspectives adopted by these different groups.

While there are attempts to ensure that Scotland adopts the human rights, victim focused model, to do so requires a move away from law enforcement dominated processes. Continuing gaps within the Scottish model of victim support, surround issues of victim identification, awareness of human trafficking among front-line agencies (particularly those outside Glasgow), which impact on the extent to which dedicated services can support victims more broadly.

A key priority is the effective identification of victims in order that they can access support services, requiring an agency specifically designed for victim assessment and support, and thereby prosecution, rather than *vice versa*. The Equality and Human Rights Commission (2011) called for a separate system to identify victims, noting that problems arise when untrained officials are overwhelmingly concerned with the criminalisation of perpetrators or the deportation of irregular migrants than the welfare of victims. Evidence from support agencies indicates that there have been challenges in the identification of victims where police divisions have limited experience with trafficking victims.

The Anti-Trafficking Monitoring Group in the UK has recommended the appointment of *"an independent anti-trafficking watchdog, based on the model of the Dutch National Rapporteur on Trafficking in Human Beings, with statutory powers to request information from the police, the immigration authorities, social services and NGOs and to report to Parliament"* (2010:14). There is widespread agreement (Amnesty International, 2008; Equality and Human Rights Commission, 2011) that the operation of the Competent Authority should be based on a multi-agency model, where law enforcement and immigration officials share the function of identification with other relevant agencies, professionals and NGOs with expertise across all forms of trafficking. In relation to child trafficking there is a consensus that child protection services should be the primary agencies involved in trafficking determinations – a child Scottish NRM could be based on the 'Glasgow model' where social work and police take the lead in a multi-agency response, as in other child protection cases.

As Clawson et al (2009) note, given the complex and extensive needs of trafficking victims, it would be impossible for a single agency to respond effectively; therefore collaboration across service providers is crucial. The United Nations (UNODC, 2008: 144) also emphasise the importance of partnerships between services in order to meet the needs of victims but note "*the most critical factor in assistance and support programmes is that they should be comprehensive and integrated. (...) A one-stop' access to all the services required is still the best service delivery option for victims*".

One of the key areas in need of improvement is raising awareness of the pervasiveness of human trafficking and the depth of understanding of issues surrounding it. In particular there is a need for a better understanding of indicators and consequences of trafficking for forced labour and domestic servitude; at the same time, recognising that views towards 'prostitution' can also cloud coherent responses to women trafficked for commercial exploitation. This needs to happen on two levels: service level and population level.

There is a need to ensure that the strategic approach incorporates front-line workers and First Responders and that staff are supported to recognise and respond to indicators of trafficking. Evidence suggests that there is still confusion among front line workers as to the difference between human trafficking and human smuggling. In order for Scotland to fully adopt a human rights, victim-centric approach to human trafficking, this model needs to be adopted by immigration officials, UKBA, and law enforcement officers.

Theoretical analysis
A theoretical analysis of the social developments and conditions that perpetuate exploitation is required. Prevention is often considered to be the 'weakest link in the chain', raising as it does, much bigger issues surrounding how best to tackle poverty, inequality and greed. Importantly, attempts to make significant social change can bring reformers into conflict with vested (political and economic) interests; and efforts required to challenge exploitation, where the consequences of such exploitation benefit powerful groups, can be substantial and overwhelming. Indeed, trafficking in its various manifestations is upheld by both 'criminal' and 'legitimate' business interests; with overlaps between semi-legal and criminal economies (Ruggiero, 1997).

Trafficking is a form of abuse and exploitation that requires contextualisation within a continuum of restriction and economic exploitation experienced by some groups of migrants. Focusing on trafficking as a 'local' issue ignores its globalised nature. Similarly, viewing the victimisation and exploitation which is a feature of trafficking as discrete, time-limited events also obscures the processual and ongoing nature of victimisation; highlighting the need for protection of vulnerable groups and individuals through both specialist and mainstream provisions. Furthermore, as Davidson (2010: 257) notes: '*State-sponsored violence against migrants, and the forcible restrictions placed on migrants' freedom of movement and choices by immigration regimes, is invisible in discourse on trafficking'*. She argues that this discourse can serve to depoliticise by curtailing political struggles against 'restrictions, exploitation and injustice' experienced by many groups of migrants.

Recognising the systemic nature of exploitation within capitalist systems highlights the shared nature of exploitation as manifested through both internal and inter-state trafficking. Responding requires more than service provisions, it also requires a wider commitment to tackle human rights abuses, inequalities and exploitation within Scotland more generally – or put another way, to create a society that is based on principles of human rights, equality realised through widespread social change.

References

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