

Human trafficking: conceptualising definitions, responses and 'what needs to be done'

Event Two - December 13th and 14th 2012

Lighthouse Gallery, Glasgow

Models of Intervention

Following on from the successful first SUII seminar on human trafficking in October 2012, Event Two was designed to build on the discussion around the concept and definitions of trafficking by looking at the models of intervention / service provision that have developed, mainly across Europe and the UK.

In the briefing paper distributed prior to Event Two, 'interventions' were afforded a relatively wide definition to encompass responses to trafficking at the international, national, government, local, strategic, policy and practice levels, including academic input to the debate and response.

Participants from across Europe and the UK presented an eclectic mix of experiences and responses to inform the debate over two days.

It was noted that most of the key agencies responsible for the UK strategic response were not present at the seminar – UKHTC; UKBA; Salvation Army; Migrant Help.

Terminology used within the trafficking discourse is controversial – none more so than that of the term victim or survivor. The seminar series have seen both terms being used by participants and these notes also use both. Where possible the term victim is used at the point of possible identification, or before, where exploitation may be continuing and individuals remain victimised. Survivor is utilised where it is most likely the person has exited the trafficking networks and engaging effectively with protection and support services. Naturally there will be some overlap, and the different use in the notes attempts to mirror the use at the seminars and the ongoing debate.

Event Two was chaired by Beth Smith (WithScotland) and a brief summary of the presentations is presented here, with more detailed discussion of various aspects of the event contained in the main body of the report (PowerPoint presentations are available on the SUII website).

Blanka Hancilova - Advice Research Capacity

Blanka brought her years of experience working in trafficking policy and research to comment on the challenges and limitations associated with most trafficking related interventions to date. Despite over two decades of discussion and debate around

international protocols the issue remains unclear, exploitation and trafficking are defined differently in different jurisdictions and agencies are still not working together.

Adam Weiss – AIREC centre London

Human Trafficking in Scotland: Relevant European Law

Adam discussed the implementation of international law into domestic legislation and the particular difficulties associated with the adoption of EU human trafficking law and conventions into the Scottish when some of the areas of concern re trafficking are developed and some reserved. Adam presented four models of how European Law may apply to victim protection and be implemented in Scotland, but acknowledged the difficulties of this in practice

Tim Waldron – Love 146

Models of Intervention at the European Level – Moldova and Romania

Tim presented a round up of Love 146s work in Eastern Europe in the area of primary prevention, drawing on the example of input in two countries, Moldova and Romania. Highlighted that existing prevention strategies are often sporadic and short term, with no impact measurement and wider conceptualisation. Involving young people as designers or advocates is central to Love 146 work so that ‘stuff’ is done with, not to or for, people.

Carolina Lasen Diaz– Council of Europe Secretariat

Models of Intervention the European Level Council of Europe Convention

Carolina highlighted the work of the 15 independent evaluators from GRETA in monitoring the convention across Europe. In the first round of evaluation reports in 2011-2012 13 were published, with a further four to be published in 2013. Issues emerging include assistance should not be based on co-operation with investigations, more focus on male victims and particularly child victims and respecting the privacy of individuals.

Ann Hamilton – Development Director – Human Trafficking Foundation

Ann discussed some of the challenges that have been evident in Scotland and UK response to trafficking. Not least, the absence of any co-ordinated government response - unlike responses to poverty / homelessness / domestic violence etc. Despite a developing operational knowledge base and the Scottish summit people with most knowledge about the issues are often kept at arms length strategically.

Graham O’Neill – Independent consultant

Reflections and insights on human trafficking in Scotland

Graham talked about thoughts on his involvement in research and policy development over the last three years. He focused on the importance of a strategic and civic response to trafficking, one that acknowledges the effects of trafficking on its victims, but also recognising the wider societal influences.

Moira McKinnon – Principal Officer Child Protection Glasgow City Council

Child Trafficking: The Glasgow Response

Moira tracked the history of the responses by Glasgow City Council to child trafficking, a response that has been supported by a robust evidence base that locates trafficking clearly within the child protection system. Despite good practice and policy models it was acknowledged that even after six years of work challenges remain in identification and keeping children and young people safe.

Clare Tudor – Scottish Refugee Council

Supporting the Victims of Trafficking: The Scottish Guardianship Pilot Service

Clare discussed the Scottish Guardianship service in terms of the input for trafficked children – approximately a quarter of all young people referred to the Guardianship Service exhibit signs of trafficking. The service has provided a point of contact for agencies across Scotland, but has also identified challenges in protecting children, especially those accused of drug related crime.

Chris Cooney – International Liaison Officer, Scottish Crime and Drugs Enforcement Agency

Chris discussed the role of SCDEA to divert, disrupt, deter and detect as part of its commitment to tackling international crime. Through Eurojust and Interpol international criminal gangs can be identified and disrupted via information and evidence sharing agreements.

Bronagh Andrew - TARA / Sharon Doherty Compass Project

Models of Intervention – Protection vs Processes vs Care

Bronagh described the work of TARA in offering support to women who have been trafficked for sexual exploitation into Scotland. Sharon has been providing psychological support services to TARA clients and discussed the long term nature of much of this work to overcome the trauma associated with trafficking.

Jim Laird - Independent Consultant

VoHT Interventions – the good the bad and the ugly

Drawing on his experience of working closely with many agencies across Scotland, Jim described practice that has tended toward the bad and the ugly as services struggle to deal with the complexities of human trafficking. Good practice has coalesced around multi-agency working, but a strategic multi-agency response is still required to improve practice.

A number of key themes emerged from the two days, which built upon on, and developed further from series one, the challenges associated with responding to trafficking in Scotland, within a European and global context. It was highlighted again the present disparate responses that are not linked together via an overarching strategic approach, a clear

evidence base on the nature and extent of trafficking, nor a coherent conceptual and theoretical understanding of the issues. Many of the points raised by presenters were drawn out and discussed during the two days; these debates are summarised below:

Definitions

In line with the focus of Event One, the issue of definitions and concepts was a theme that continued to emerge throughout the two days of Event Two, across the presentations and in discussion. Maintaining a consistent understanding of trafficking is often difficult because of the various agencies involved in addressing the issue, their priorities and responses, and the heterogeneous nature of the exploitation and types of victimisation.

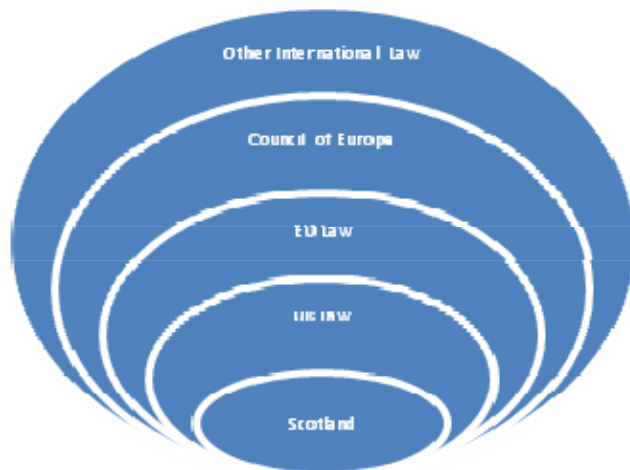
Some concern was expressed that as the profile of trafficking is raised, more people become aware of the issues, and professionals receive training, the confusion surrounding trafficking increases. In depth experience, or knowledge of trafficking as it manifests itself in Scotland, is limited to a relatively few individuals and agencies and there has been little development to consider its impact nationally and globally in terms of wider inequalities and injustice. While trafficking can be internal within borders, in respect of the Scottish context to date, the majority of identified potential victims of trafficking have been non UK nationals, the majority also within the asylum system and subject to immigration controls. Thus, while Scotland has to develop responses for victims and perpetrators within its borders policy makers and practitioners cannot lose sight of the wider global influences that permit trafficking and include Scotland as primarily a destination country.

In addition to the definition of trafficking remaining confusing there were also concerns raised about the perhaps even more grey area of what is 'exploitation' in terms of meeting the terms of the EU directive and providing effective responses. While the trafficking definition is at least 'defined' in the convention and directive, the term exploitation is used liberally without any clear definition. Although there are apparently clear examples eg sexual, labour, domestic servitude – it cannot be considered a straightforward exercise to identify some behaviours and exploitation as being trafficking and others not.

Definitions and concepts remain one of the biggest stumbling blocks in terms of addressing the issue of trafficking globally, and in respect of Scotland specifically the issues of definition were paramount in relation to the definition of a child under the Scottish legal system.

Legal

Much debate remains about the use of the legal system in preparing the ground for successful interventions. Not least because of the fact that different parts of the international legislation are enacted differently in different jurisdictions. The diagram below indicates the Scottish position in relation to other instruments of law and highlights where Scotland is located in a complex wider legal framework.



The complicated nature of the European legal system in this area, which includes both Council of Europe and European Union legal instruments, causes confusion as to their implementation in the UK. This is magnified when one considers the competencies of a devolved Scotland. European law requires that it is mediated through the UK most of the time, especially in relation to asylum and immigration issues., Responsibility for ensuring compliance with the different legal instruments– especially in respect of victim services - further complicates implementation in Scotland.

European legal instruments can be 'woolly' as they are often a product of intergovernmental compromise. Case law is often relied upon to clarify definitions and examples in different jurisdictions. Consequently, the use of legislation alone to inform practice guidelines and procedures can lead to unclear processes and guidelines, especially when concepts of 'appropriate' 'minimum levels of subsistence are not clearly defined in legislation for practitioners.

So, who does make decisions about appropriate levels of care? For children, it seems that it should be social work services / police under child protection processes. Not so clear for adults and in both systems legal avenues may be needed to ensure victims are properly assessed and receive an appropriate level of service to meet their needs

Structural inequality in a globalised world

The debate around trafficking is further confused when the structural factors that underpin many of the reasons for people being moved, or moving across the globe, also relate to people's motivation to migrate and search for work (often poorly paid and unregulated) to overcome inequality and poverty. This debate is often played out in the legal and practical definitional issues around smuggling and trafficking – different or a continuum? The trafficking smuggling distinction is crucial to the debate and while perhaps reasonably well defined in legal terms it remains controversial, and perhaps divisive, in relation to identifying those people who are 'deserving' of services because they are 'victims' and

those who may not receive a service because they are 'illegal immigrants' and / or 'economic migrants'.

Within the trafficking context of movement across borders as part of a wider migration of people the structural and geo-political factors that contribute to trafficking are rarely discussed at strategic levels, especially when the responses are based around a criminal justice / legislative approach. Additionally, the wider global political structures are rarely evident in informing interventions at the personal / individual level when working on recovery and reintegration of victims. The predominant discourse of response and intervention is one focussed around the individualisation of the problem – be that victims or traffickers – rather than a structural and socio-political analysis of the contributory factors. This is perhaps understandable in the present political imperative in western economic regions to seek ever more 'secure borders' and focus on 'border controls' when the 'other' (ie migrants) are seeking to overcome personal and societal inequalities. Focussing on the individualisation of trafficking can divert attention away from the much wider, and more intractable, issue of global inequality.

The ongoing debate and generally poor responses to trafficking may be a reflection and realisation by political leaders in the west that trafficking is the contemporary manifestation of global inequalities that fuelled the slave trade in the 19th century and the mass migration of people in the 20th century as a result of conflict (link to Hazel's presentation). Thus, in the first years of the 21st century, trafficking has been brought to the attention of a wider audience and the issues discussed and responded to within an asylum/immigration framework. This is often to the exclusion of an exploitation discourse and the need within capitalist societies to call upon cheap labour in times of need, but to close the doors when it doesn't suit the political imperatives of the time. (An example given concerned the role of social media and technology that allows a global audience to easily view the inequalities – See Tim Waldron's presentation concerning the work of Love146 in Moldova).

Those interested in addressing the issue of trafficking as a reflection of structural inequalities, and individual responses to these within a human rights victim focused perspective, understand that the debate has been historical and continues without any effective responses to date, which suggest effective responses require a long-term investment. Those who seek to address the issue purely through a national strategic / legislative approach, without recognising or acknowledging the global factors, must realise that any changes will be piecemeal and in all probability short lived for political expediency. There will be conflicts between various interest groups and divisions in understanding are real and do stall progress. For example, the definition of exploitation is a paramount issue, one that is often lost to the definition of trafficking.

Within the individual / structural debate there is the additional discourse surrounding 'genuine' and therefore 'deserving' victims, which covers both expectations of the effects of exploitation on survivors and how these may be manifest, but also at its simplest how victims present to services. There are cultural misunderstandings on the part of service providers and while trafficking is viewed through the immigration / asylum prism there will be issues re the deserving / undeserving recipients of services. Similarly, while there remains misunderstanding of concepts and definitions many people will expect victims to fit the

classic 'model' of a trafficking victim – chained to a bed with no freedom of movement – obviously most victims do not fulfil this stereotype and a single model of victimisation does not exist.

Responses and interventions

The Scottish Summit to discuss issues of trafficking, has been a refreshing development north of the border, somewhat different from the lack of nationwide strategic discussion in England and Wales, outside Westminster and parliamentary debate. The Summit is welcomed as a positive development to address the legislative and strategic Scottish response, and take forward the national strategic recommendations contained in the Equalities and Human Rights Commission (EHRC) report. However, it was also noted the summit was by invitation only, privileging certain voices; and that by focusing on the recommendations of the EHRC, which mainly located around a strategic / legal response, the expertise that had developed at the front line was missing and largely overlooked (linked to bottom up response from series 1).

One of the dangers of a national strategic response is that interventions focusing on adherence to EU conventions and directives (even then only on certain aspects) may not take a human rights response and are generally not victim centred. Legislation revolves around the prosecution of trafficking perpetrators, and perhaps the identification of victims via this legislation, rather than being about the provision of services that best meet the needs of victims, supported by a clear evidence base. Problems to date are that, for adults especially, the provision of services has focused on the short term - often in relation to obligations under the EU convention and directive re 30/45 day recovery period. It is unlikely that the trauma experienced by many trafficking victims can be addressed in such short timeframes and there has been little focus on long-term provision of services. Basically, service provision is focussed on jurisdictions meeting their commitments under the EU conventions and directives, and not on the longer term needs and recovery of victims. It is unlikely that even a 45 day recovery period is sufficient to begin the process of physical and psychological recovery following exploitation and abuse through trafficking.

At the moment it appears that services and responses are geared to identification (linked to the legislative approach) which can override a rights based approach if the focus becomes identification and prevalence, rather than recovery and (re)integration services.

To address this there is a need to challenge existing systems and ensure that any evaluations are based on the potential outcomes for individual victims, rather than process outcomes in terms of meeting the nation's convention obligations. Unfortunately evaluations are never, or rarely, undertaken anywhere globally and information on the success, or otherwise, of interventions is difficult to access and monitor.

In cases where individuals are repatriated, agencies which have supported them in Scotland often don't know what happens to them when they leave the country. Countries of origin are often expected to follow western-style responses i.e. expected to respond as if the west has the answer (link to border controls).

Victim centred approach should be:

Hope

Long term
Cross sectional, holistic
Overcome the fear of
re-traumatisation

Reality

Short term
Single focus
Lack of access to victims

Within the international obligations and guidelines the responsibilities on the state remain consistent across jurisdictions (especially in Europe with EU law etc). But, at the moment the state absolves itself of responsibility in many jurisdiction by engaging NGOs to deliver. This also manifests itself by states adopting a high level strategic approach (Scottish summit), without engaging with those agencies with actual experience of working with trafficking victims and having a focus on what needs to be done – again legal v human rights dichotomy, although it does not have to be so.

When it comes to the actual provision of services to meet legal requirements the water becomes even muddier as the involvement of various actors in the provision of a response results in different definitions amongst service providers and contested understandings of the best type of interventions and most appropriate application of the law.

All the different actors need to work together to ensure the best possible outcomes for survivors, but as this involves close liaison between victims and front line workers to governments and policy makers enacting designing laws and processes - close working becomes ever more problematic.

While the gulf between these responses is indeed substantial ability to link them together and ultimately to begin speaking the same language on trafficking is important if a human rights approach is to predominate.

Scotland – to date the high level criminal justice / legislative response has predominated with the high level summit held in October in parliament identified as the most useful response to trafficking, which didn't include those who work with survivors at the front line.

Mutual trust amongst persons involved works best with responses, which highlights the importance of common definitions and aims which is largely absent at the moment. Relationships are key to good working practices – relationships with other agencies / relationships with service users / relationships between developing and developed world.

Often responses built around 'comply with our rules or else' eg CoE reflection and support period is premised on helping with police enquiry which then impinges on who are viewed as victims – (if there is no police enquiry, no conviction are there no victims?) The perception of who is a victim – and the social aspect of who is victim – is not necessarily the same as legal definitions.

This then creates problems for victims who wish to complain about a service for trafficked people – they may be told to ‘take it or leave it’ – which may then become a legal issue to be determined and addressed which in itself takes away from a victim-centred approach.

Academic critique & research

A recurring theme to date, and a point underpinning the SUII series, has been the, largely, absent academic input to trafficking policy. While this is not a uniquely Scottish issue, local and national policy has developed in an information and evidence vacuum and to date there has been limited critique of any of the ‘best practice’ models

A particular challenge for researchers and academics has been concerns from victim support services about speaking to trafficked persons - agencies are often overly protective not wanting to re-traumatise victims. But, the present system allows victims to be interviewed on numerous occasions by law enforcement / child protection / asylum / legal professionals, and while there have been questions raised about such practice multiple interviews for specific agencies and systems remains the norm. The Glasgow child protection response attempted to overcome this by proposing one interview for all purposes but there were too many organisational / structural barriers and disagreements from various agencies.

In Scotland, the Glasgow child protection responses and the Guardianship pilot are the only services that have been evaluated and this may have helped in adopting these models as it can be evidenced via an empirical approach that interventions are working / not working. An example of the importance of monitoring and evaluation of services has been the Glasgow child protection model. Monitored as part of a UK pilot and evaluated and monitored internally with a robust framework, the views of professionals and ongoing outcomes for children have indicated the child centred nature of this approach and highlighted that as a model if it was rolled out across Scotland it would be more or less compatible with the forthcoming EU directive. It is a positive approach to putting children at the centre of the process and viewing the present NRM/CA referral as a secondary importance to protecting children within a human rights agenda. Monitoring and evaluation built into the response framework

There was general agreement that more research is required to develop a more robust evidence base and that at the moment the political / media driven developments are not necessarily the right ones, focusing often on the Scottish responses, rather than the broader global and structural issues. While it was recognised that recommendations from the EHRC enquiry were useful, they were classed as high level, government strategic response recommendations, focused as indicated on a narrow Scottish response. Underpinning this , and given the nature of the international trade in human beings, there is a need for academic input, not only for the conceptual and theoretical models to support local and national initiatives, but also for evaluations to evidence what is being done is best practice and makes a difference.

Specialist v mainstream services

There remains considerable disagreement about whether a specialist service response is required for trafficking victims. These discussions are often located in the generic debate about human trafficking that can overlook both national and international guidelines, which require specific responses to child victims. There is some agreement that a child protection approach within mainstream child protection services is best placed to support children – evidence from Glasgow and the Guardianship Service is that locating responses to trafficking in wider children’s services helps to not label children and offers good levels of peers support.

With regard to adults a slightly different response may be required – specialist services may be appropriate at this moment because there is no equivalent of the child protection system. Adult Protection (in Scotland) criteria are generally not met by the majority of trafficking victims.

A compromise position for both adults and children may be a mainstream service with access to specialist knowledge – eg Glasgow child protection team provide the specialist advice for operational staff in respect of trafficking concerns. Similarly, TARA link in with other agencies to provide holistic support.

Working across sectors

Multi-agency working has long been identified as the key to effective interventions. Little recognition of the huge gulf between the ethos of the different agencies / organisations / governments etc in terms of approaches, values, interests (this links with debates that took place at Event One with regard to different interest organisations / highly politicised issue / victim-human rights approach / border control approach / criminal justice approach).

There are many challenges in the multi-sectoral approach, linked to the need to address structural issues for many people involved in addressing trafficking v individualised responses. While these may not necessarily be mutually exclusive activities the approaches may vary considerably.

As with the issue of definitions and concepts the divisions in understanding and approaches to adopt are real and impact on the ability of the different agencies to work effectively together; despite widespread agreement that a multi-agency approach is crucial in addressing trafficking.

For example - presentations in the final session– how is it possible to reconcile approach of Europol / Eurojust at the level of intelligence and data sharing across international police forces with the individual psychological focus of the TARA work helping victims to visualise their locus of control in overcoming trauma. Both activities have the same overall aim of addressing trafficking, but arguably considerable difference in the approaches to tackling the issues.

Discussion / Comments

- Is it possible to address trafficking as a whole entity across the globe – or is the best approach to break down into constituent parts and hope that somewhere somebody joins the dots and evaluates and shares best practice?
- What can practitioners working with individual victims in Scotland contribute to the ending of structural inequalities across the globe?
- Re follow up monitoring – if survivors leave the country (UK) there are rarely follow ups to ensure safety and understand what has happened to be able then to share best practice
- Possible recommendations from the SUII series – these should not be centred around awareness raising / training and a strategic / political approach – these have been recommended elsewhere. There is a need to look beyond such a narrow focus to Scotland's place in the world re trafficking and what can be learned from here and what we need to learn from others
- Recommendations – is there a need to go back to basics of global inequalities being main driver for trafficking and also lack of joined up responses. This is likely to be linked with 'closed borders' especially in Western Europe with little opportunity for legal migration
- Focus not on individuals (except for recovery services) but need to focus on structural issues
- Re children – 'Glasgow model' – practice and policy in Glasgow is almost compliant with EU directive – does this Scottish approach need to be shared more widely.
- In respect of responses for adults in Scotland there may be some way to go re supporting victims across all their needs, but there is expertise that requires building on eg TARA – psychological assessments embedded in the assessment and decision making process is a step up again from what is available elsewhere in the UK