Every country in the world is affected by human trafficking, whether as a country of origin, transit, or destination for victims. In 2000, the United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Palermo Protocol”). Its definition of human trafficking contains three elements:

1. **The Act**: the recruitment, transportation, transfer, harbouring or receipt of persons;

2. **The Means**: by threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or by giving payment or benefits to a person in control of the victim;

3. **The Purpose**: to exploit the prostitution of others or other forms of sexual exploitation, forced labour, slavery or similar practices, servitude or the removal of organs.

Over 110 States have signed and ratified the Palermo Protocol, however, the United Nations Office on Drugs and Crime recently reported that “[v]ery few criminals are convicted and most victims are probably never identified or assisted”.

In 2002, the U.N. based Office of the High Commissioner for Human Rights noted the need to harmonize legal definitions, procedures and cooperation at the national and regional levels consistent with international instruments like the Palermo Protocol. The purpose of this questionnaire is to explore the extent to which member countries have implemented domestic anti-trafficking legislation and whether that legislation is effective in addressing these concerns.

**Question 1**: Has your country signed and ratified the Palermo Protocol? If yes, on what date?

The UK signed and ratified the Palermo Protocol on the 9th February 2006.

**Question 2**: Does your country have special legislation for the criminal prosecution of human trafficking? If yes, please answer Questions 3 to 10. If no, is there any such legislation presently under consideration?

Yes. The special legislation is contained in:

*Ss. 57 - 59 Sexual Offences Act 2003*

and:

*Ss. 4&5 Asylum & Immigration (Treatment of Claimants, etc.) Act 2004.*

**Question 3**: How is human trafficking defined in your country’s legislation?

Under the Sexual Offences Act, 2003:

*A person (A) commits an offence if he intentionally arranges or facilitates the arrival and entry into or travel within or departure from the UK of another person (B) and he intends to do anything or he believes that another person is likely to do something to or in respect of B, in the UK or in any part of the world which if done would involve the commission of a relevant offence.*
A "relevant offence" is any sexual offence or an offence contrary to the Protection of Children Act or anything done outside the UK which would be an offence under those provisions if done in the UK, whether or not it is an offence in the foreign country.

Under the Asylum & Immigration (...etc.) Act, 2004:

A person (A) commits the offence (termed "Trafficking People for Exploitation") if he arranges or facilitates the arrival in, travel within or departure from the UK of an individual (B) and he intends to exploit B or he believes that another person is likely to exploit B in the UK or elsewhere.

A person is "exploited" if (and only if):

a). he is the victim of behavior that contravenes Article 4 of the Human Rights Convention (Slavery and Forced Labour);
b). he is encouraged, required or expected to do anything as a result of which he or another person would commit an offence under the Human Organ Transplants Act or the Human Tissue Act;
c). he is subjected to force, threats or deception designed to induce him to:
   1). provide services of any kind;
   2). provide another person with benefits of any kind;
   3). enable another person to acquire benefits of any kind.
   or d). he is requested or induced to undertake any activity, having been chosen as the subject of the requests or inducements on the grounds that:
   1). he is mentally or physically ill or disabled, he is young or he has a family relationship with a person, and
   2). a person without the illness or family relationship would be likely to refuse the request or resist the inducement.

Question 4: Does the legislation criminalize:

(a) Attempts to commit a trafficking offence?

Yes. Attempts to commit any offence are prosecuted under the Criminal Attempts Act, 1981 which states: "If, with intent to commit an offence...a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence." The Court of Appeal has decided that..."attempt begins at the moment when the Defendant embarks upon the crime proper, as opposed to taking steps rightly regarded as merely preparatory." It will be a question of fact in each case.

(b) Participation as an accomplice or party in a trafficking offence?

A party or accomplice, if he participates in any way, is held to be "in it together" with others if he has the same criminal intent as the others. He may also be charged with Conspiracy to commit the offence.

(c) Organizing or directing others to commit a trafficking offence?

Organisers or those directing may also be Co-Conspirators, or Jointly Liable with Intent if they are "in it together" with others or may be held to be "intentionally encouraging or assisting the commission of an offence" contrary to Ss. 44-49, Serious Crime Act,2007 or "aiding, abetting, counselling or procuring the commission of an offence" under S.8, Accessories and Abettors Act, 1861.

Question 5: Can corporations be charged with human trafficking along with natural persons (ie. employment agencies, travel agencies, escort services)?

Yes. The Interpretation Act, 1978 states that the word "person" in a statute includes "a body of persons corporate or incorporate", subject to the appearance of contrary intention. No contrary intention is contained in human trafficking legislation.
Question 6: Does the legislation contain special provisions regarding the trafficking in children? If yes, please describe.

Children would be fully covered by the provisions of the 2003 and 2004 Acts but the "relevant offence" definition in the 2003 Act does specifically include trafficking for the purposes of taking indecent photographs of a child.

Question 7: What are the penalties for human trafficking offences? Do they include deportation? Do they include confiscation of instruments of trafficking and proceeds of trafficking?

People convicted of a Human Trafficking offence face up to 14 years in prison. If they are sentenced to a term of 1 year or more they are liable to automatic deportation under the UK Borders Act, 2007. Any land vehicle, ship or aircraft (including a hovercraft) used for the purposes of the offence is liable to be confiscated, as are any financial proceeds shown to be the benefit of criminal conduct under the Proceeds of Crime Act, 2002.

Question 8: Are there statistics available on the number of prosecutions and rates of conviction in your country for human trafficking offences since its anti-trafficking legislation was adopted? If yes, please provide.

Figures are very difficult to obtain. British police estimate that up to 4,000 trafficked persons, primarily women, are being exploited in the UK at any given time - but less than 100 people are prosecuted in a year. 28 convictions were obtained in 2006 and 10 in 2007; in 2008 police arrested 25 members of a Romanian gang using children as pickpockets and in begging schemes - but so far as I can find to date the outcome of that prosecution or others have not yet been recorded. The Home Office does not appear to be keeping records of the number of people trafficked into the UK for purposes other than sexual exploitation.

Question 9: To what extent does your country permit (through legislation or protocols) the pursuit of anti-trafficking investigations in cooperation with foreign intelligence or police services?

UK is a member of Interpol, the European Union and the Commonwealth and co-operation is provided for in all those spheres. Treaties exist with other countries that deal with policing and the exchange of intelligence.

Question 10: Are there provisions protecting trafficked persons from being prosecuted or punished for their illegal entry or residence in your country as a result of having been the victims of human trafficking? Are there provisions preventing their deportation where there are grounds to believe that their return to their country of origin presents a significant security risk to them or their family members?

Victims are not prosecuted. If they were, an "Abuse of Process" would be likely to succeed - a judicial discretion to stay an Indictment as being "something so unfair and wrong that the Court should not allow a prosecutor to proceed with what is, in all other respects, a regular proceeding." In 2007 the UK Government launched "Pentameter 2", a large-scale operation aimed at rescuing victims, disrupting trafficking networks, developing intelligence and raising public awareness. A national referral system has been piloted for victims, but with limited success. In order to meet the criterion for Government assistance, victims must be over 18, involved in prostitution within 3 months of referral, willing to co-operate in the prosecution of their traffickers and must be trafficked into the UK from abroad. Victims who do not meet this criteria are referred to other Social Service agencies, non-government organisations (usually charities) or their respective embassies. However some have been held in prison on immigration violations prior to being deported although foreign victims are provided with legal alternatives to their removal to countries where they face danger, hardship or retribution. Those involved say processes continue to be cumbersome and inconsistent for victims seeking such alternatives but by filing for asylum, humanitarian protection or extraordinary relief, claimants on a case-by-case basis may obtain residency.

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