



Immigration Law for Criminal Lawyers - Particular Implications for Children in the CJS

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TOP TIER SET
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Introduction to Basic Immigration Principles for Criminal Practitioners

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Overview

Basic introduction to Immigration Principles which might have a future impact on defendants who are not British Citizens – Foreign National Offenders (“FNO’s”):

- Designed to be a very basic introduction. Early informed advice can have a significant impact on an individuals future immigration status (including mitigating the risk of deportation).
- Main focus on first appearances and early stages of litigation process. Child/youth orientated, a lot of general applicability to all FNO’s.
- Some will be familiar with the the themes I discuss. Others less so. Building blocks are important for later talks in this series.



Background

Until recently Policing and Crime Act 2017 defendants required to state nationality in open court:

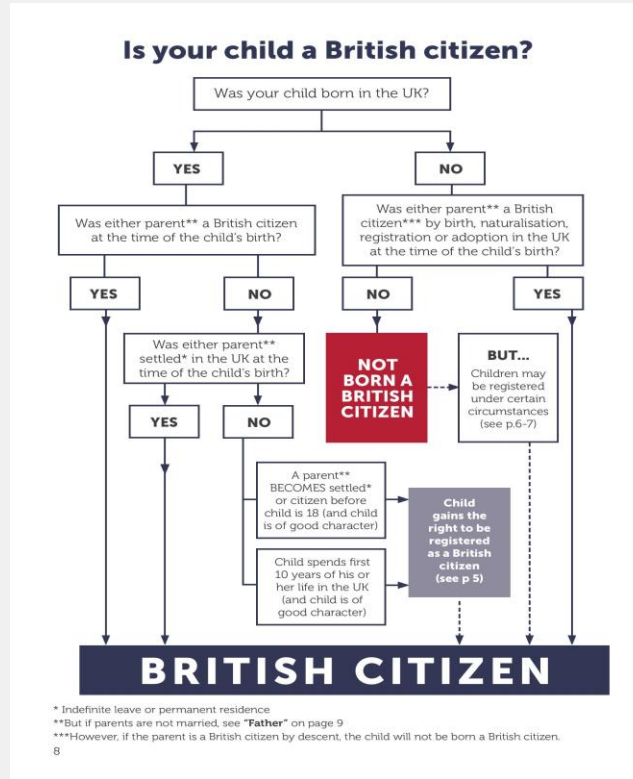
- Part of wider “hostile environment” policy.
- Issues (“The State of Innocence” Commons Legal report, May 2020):
 - 90% of practitioners felt it had a negative impact on perceptions of fairness;
 - 80% of defendants would state ethnicity or race as well as nationality;
 - 66% of people not asked their nationality were white.
- David Lammy (Lammy Report 2017):
 - “BAME individuals still face bias, including overt discrimination, in parts of the justice system (p.69)”
- Threat of legal action led to amendment of Criminal Procedure Rules. HOWEVER, the consequences – and potential unfairness – have not gone away.



What is your Client's Immigration Status?

- **British Citizenship**
- **Indefinite Leave to Remain:** (“ILR”)
 - Permanent residency. But can be taken away.
 - British Citizenship not automatic – need to register. Cost of £1,012 a barrier.
 - Recently upheld as unlawful - *R (Project for the Registration of Children As British Citizens & Anor) v Secretary of State for the Home Department* [2021] EWCA Civ 193
- **EU Citizenship:**
 - Registered? Settled status or pre-settled status?
 - Date of offence important. If before 01 January 2021, EU Law offers a protection against deportation.
- **Limited Leave to Remain:** Granted for a set period and renewed. Common for children who arrive as unaccompanied asylum-seekers.
- **No Leave to Remain:** No lawful immigration status. But be aware of indicators of trafficking or modern slavery (Vietnamese cannabis farmers; Albanian county lines runners). *V.C.L. v. UK* [2020].

Working out British Citizenship / Entitlement



Children Under the Age of 18

- Home Office duty to “*have regard to the need to safeguard and promote the welfare of a child in the UK, in the best interests of the child.*” Borders, Citizenship and Immigration Act 2009 s.55.
- But, children over the age of 10 must satisfy a “Good Character” requirement when applying to naturalise as a British Citizen.
- Criminal conviction not an automatic barrier to naturalisation. However, nature and history of offending could be relevant.
- Evidence of bad character can be used against a child/youth even without conviction (e.g., Operation Nexus).
- If a first offence:
 - Could be wise to advise child/parent of potential impact of offending on their future immigration status and risk of deportation.
 - If entitled, an early application for naturalisation might mitigate against risk.

See Home Office “Good Character Requirement” (Version 2.0; 30 September 2020) – link at end.

Presumption in Favour of Deportation

Two important sentencing thresholds which create a presumption in favour of deportation (Youths over 18):

- (a) Custodial sentence of 12 months or more or
- (b) custodial sentence four years or more.
 - Exception One:
 - C has been lawfully resident in the UK for most of C's life,
 - C is socially and culturally integrated in the UK, and
 - there would be very significant obstacles to C's integration into the country to which C is proposed to be deported.
 - Exception Two: C has a genuine and subsisting relationship with a qualifying partner, or a genuine and subsisting parental relationship with a qualifying child, and the effect of C's deportation on the partner or child would be unduly harsh.
 - Four years custodial sentence = “compelling circumstances” over and above those described in Exceptions 1 and 2! Difficult threshold to overcome!
- (c) Remember, relatively trivial persistent offending can also trigger a deportation.



How does this fit with your practice?

Up to you. You guys are the experts. Can be difficult to think about immigration when under pressure of a first appearance. But it can have significant life-changing consequences.

Two key factors which could be worth considering when taking instructions and giving advice:

1. Potential relevance to plea.

- PWITS Class A:

- Guilty plea on day of trial or after trial = potential custodial sentence over 4 years.
- Guilty plea at first appearance = potential custodial sentence under 4 years.

2. Advise client that their immigration status is perilous. They might seek immigration advice before trial, or have an immigration solicitor lined up to deal with the deportation order if they are convicted.



In summary:

- Question of nationality remains important:
 - Can impact on good character requirement for under 18's otherwise entitled to British Citizenship. Many with ILR who are entitled to British Citizenship do not register due to cost. Do not appreciate the significance until it is too late.
 - Can be useful to prompt young offenders – especially where they have limited previous contact with the Criminal Justice System – to seek to naturalise to mitigate against future offending which might result in deportation.
- EU Nationals lose a lot of protections against deportation under EU Law for offences committed after 01 January 2021. Date of offence and status important.
- Sentence thresholds of 12 months and 4 years important as triggers for presumption in favour of deportation:
 - Can be important when advising on plea, but also in ensuring that defendant is ready and prepared to deal with a deportation order which may be served a long time after trial has concluded.



Useful Resources:

- [Commons Legal “The Lammy Review”](#) (08 September 2017)
- [Commons Legal “The State of Innocence”](#) (May 2020)
- [Home Office “Good Character Requirement”](#) (Version 2.0; 30 September 2020), esp p.7-14
- [Nationality, Immigration and Asylum Act 2002 Part 5A](#)
- [Project for the Registration of Children as British Citizens](#)



Introduction to Trafficking and Modern Slavery

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Definition of Trafficking

The definition of trafficking has three constituent elements:

- (i) The Act (what is done) – recruitment, transportation, transfer, harbouring or receipt of persons;
- (ii) The Means (how it is done) – threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving or receiving payments or benefits to a person to achieve the consent of another person with control of the victim;
- (iii) The Purpose (why it is done) – for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour or services, including slavery or practices similar to slavery, the exploitation of criminal activities, or the removal of organs.
- **A child is only required to establish (i) and (iii).**



Statutory Guidance

- Modern Slavery: Statutory Guidance for England and Wales (under s49 of the Modern Slavery Act 2015) and Non-Statutory Guidance for Scotland and Northern Ireland, Version 2.0, January 2021.
- The guidance is for Single Competent Authority staff and staff in public authorities who may encounter victims of trafficking and/or are involved in supporting victims of trafficking.
- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/950690/January_2021_-_Modern_Slavery_Statutory_Guidance_E_W_Non-Statutory_Guidance_S_NI_v2.pdf
- Annex H: The section 45 defence (the statutory defence).



Child Criminal Exploitation (CCE)

- There is no statutory definition of Child Criminal Exploitation.
- For the purposes of the Statutory Guidance, the Government defines it as:

‘Child Criminal Exploitation is common in county lines and occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18. The victim may have been criminally exploited even if the activity appears consensual. Child Criminal Exploitation does not always involve physical contact; it can also occur through the use of technology.’

- To meet the trafficking definition there is no requirement to take advantage of an imbalance of power to coerce, control, manipulate or deceive a child .



Child Criminal Exploitation (CCE)

- CCE includes a number of types of exploitation, including forced labour, forced theft, benefit fraud, acquisitive crime, drug cultivation and production, and county lines cases.
- The UK Government definition of County Lines *‘is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”. They are likely to exploit children and vulnerable adults to move [and store] the drugs and money and they will often use coercion, intimidation, violence (including sexual violence) and weapons.’*
- The Statutory Guidance provides a detailed list of indicators for trafficking for criminal exploitation, indicators for child victims and indicators of County Lines cases for children.



Indicators

Indicators of Trafficking for Criminal Exploitation – Victims may:

- Be children, elderly persons or disabled migrants who tend to beg in public places and on public transport
- Be carrying and/or selling illicit drugs
- Have physical impairments that appear to be the result of mutilation • Be children of the same nationality or ethnicity who move in large groups with only a few adults
- Be unaccompanied minors who have been “found” by an adult of the same nationality or ethnicity
- Move in groups while travelling on public transport: for example, they may walk up and down the length of trains
- Participate in the activities of organised criminal gangs
- Be part of large groups of children who have the same adult guardian
- Be punished if they do not collect or steal enough
- Live with members of their gang
- Travel with members of their gang to the country of destination
- Live, as gang members, with adults who are not their parents
- Move daily in large groups and/or over considerable distances
- Be forced to commit benefit fraud



Indicators

Indicators of Child Victims

- Have no access to their parents or guardians (although children may be living with their parents or guardians and still be exploited)
- Look intimidated
- Behave in a way that does not correspond with behaviour typical of children their age
- Have no friends of their own age
- Have no access to education
- Have no time for playing
- Live apart from other children and in substandard accommodation
- Eat apart from other members of the “family”
- Be given only leftovers to eat
- Be engaged in work that is not suitable for children
- Travel unaccompanied by adults
- Travel in groups with persons who are not relatives



Indicators

Indicators of County Lines cases for children

- Persistently going missing from school, home, care, being found out- of-area and/or children travelling to locations they have no obvious connections with, including seaside or market towns;
- Unwillingness to explain their whereabouts;
- Unexplained acquisition of money, clothes, accessories or mobile phones which they are unable to account for;
- Excessive receipt of texts/phone calls and/or having multiple mobile phone handsets and/or sim cards;
- Withdrawal and/or sudden change in personality/behaviour and/or language used;
- Relationships with controlling/older individuals or groups;
- Leaving home/care without explanation;
- Suspicion of physical assault/unexplained injuries;
- Parental concerns;
- Carrying weapons;
- Significant decline in school results/performance;
- Gang association or isolation from peers or social networks;
- Self-harm or significant changes in emotional well-being.



National Referral Mechanism (NRM)

- The UK has international obligations to identify victims of trafficking.
- The identification mechanism in place in the UK for potential victims of trafficking is the National Referral Mechanism (NRM).
- Adults have to consent to a referral to the NRM.
- In accordance with child protection procedures, children are referred without the need for their consent.
- Consideration of an individual by the NRM for identification as a victim of trafficking depends upon the individual being referred by a ‘first responder’.



First Responders

- Police forces
- Certain parts of the Home Office:
 - UK Visas and Immigration
 - Border Force
 - Immigration Enforcement
 - National Crime Agency
- Local authorities
- Gangmasters and Labour Abuse Authority (GLAA)
- Health and social care trusts (Northern Ireland)
- Salvation Army
- Migrant Help
- Medaille Trust
- Kalayaan
- Barnardo's
- Unseen
- Tara Project (Scotland)
- NSPCC (CTAC)
- BAWSO
- New Pathways
- Refugee Council



Local Authority Children's Social Care

- The Statutory Guidance directs:

'If anyone has concerns that a child may be a victim of Child Criminal Exploitation they should be referred to Local Authority Children's Social Care, who will decide within 24 hours what action to take including (where there is reasonable cause to suspect that a child is suffering or is likely to suffer significant harm) whether to, convene a strategy discussion. A timely assessment based on the needs of the child will then take place within 45 days. The full assessment may take the form of a section 47 enquiry, or an assessment under section 17 of the Children Act 1989. Where the child is unaccompanied there will be additional responsibilities under s20 of the Children Act 1989 as set out above. With cases of CCE, it is important that Local Authorities consider the wider context and extrafamilial threats when safeguarding children.'

- Under section 20 of the Children Act 1989, Local Authorities must provide accommodation for unaccompanied children who present in their area.



Independent Child Trafficking Guardians (ICTG)

- The Modern Slavery Act provides for independent child trafficking advocates to be available to represent and support children who there are reasonable grounds to believe may be victims of trafficking.
- The Statutory Guidance states that the First Responders should always make a referral to the Independent Child Trafficking Guardian (ICTG) if they are available in the area.
- Independent Child Trafficking Guardians (ICTGs) are an independent source of advice for trafficked children; somebody who can speak up on their behalf and act in the best interests of the child.
- The Government has committed to rolling out ICTGs across England and Wales.



Presumption about Age

- The Modern Slavery Act includes for a presumption about age provision (section 51).
- The provision ensures that in cases where there is uncertainty over the age of a victim, but whom authorities believe to be under 18, that authorities should assume that the victim is under 18, until an age assessment takes place by the local authority.
- This presumption is particularly necessary in the light of the evidence that trafficked children will travel on false documents indicating that they are adults.



Decision Making by the Single Competent Authority

- There is a two-stage decision making process adopted by the SCA.
- First stage: Reasonable Grounds decision
 - Should be done within five days of receipt of the referral.
 - Test: 'I suspect but cannot prove'.
- Recovery and Reflection Period
 - If a positive reasonable grounds decision is made the recipient should be given a recovery and reflection period of at least 45 days.
 - During this period potential victims must be provided with appropriate and secure accommodation, medical treatment, translation and interpreting services, counselling and information about their legal rights and children must be given access to education.
 - The Statutory Guidance details the support available to victims of trafficking or modern slavery
- Second stage: Conclusive Decision.
 - Should be done as soon as possible following 45 day R & R period, but very significant delays.
 - Test: Balance of Probabilities i.e. more likely than not they are a victim of trafficking.

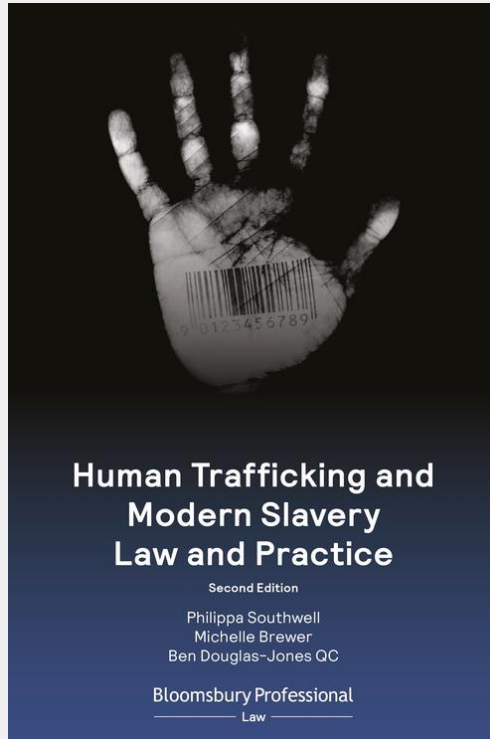


Challenging NRM decisions

- There is no appeal right against reasonable grounds and conclusive decisions of the SCA that an individual is a victim of trafficking. The remedy in respect of such decisions is judicial review.
- The decision of the SCA as to whether a person had been trafficked for the purposes of exploitation is not binding on the Crown Court or the CPS. Unless there was evidence to contradict it or significant evidence that had not been considered, it is likely that the criminal courts will abide by the decision; see *R v L(C)* [2014] 1 All ER 113 at 28 and *R v VSJ* [2017] 1 WLR 3153 at sect; 20(viii). The decision should be scrutinised by the prosecutor to see the evidence that was available to the SCA, to what extent the evidence has been analysed, weighed and tested by the SCA and to assess the quality of any expert evidence relied upon.
- In appeals to refuse protection/human rights claim the tribunal must determine the relevant factual issues for itself on the evidence before it and is therefore not bound by a decision of the SCA.
- A potential victim of trafficking may request a negative reasonable grounds or conclusive decision be reconsidered.



Further Reading



VCL and AN v United Kingdom,

App 77587/12 and 74603/12

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Context – prevalence of child trafficking/modern slavery in the UK

- Significant numbers of children are trafficked in the UK – latest NRM statistics show in the last quarter, 49% of referrals were for potential child victims
- As acknowledged by Underhill LJ in *R (TDT) v SSHD* [2018] EWCA Civ 1395 at para 40:

“Trafficking is a process and not a single event. A victim of trafficking who is encountered in the back of a lorry or found working at a cannabis farm or a nail bar will not only have been trafficked in the preceding period but will also be at real and immediate risk of the trafficking continuing; even if a victim has escaped, or been removed, from the immediate control of their traffickers, he or she will very commonly still be sufficiently under their influence to be at real and immediate risk of re-trafficking if not afforded proper support and protection.”

- See also para 82: ***“being a past victim of trafficking and being at real and immediate risk of being (re-) trafficked are very closely inter-related.”***



VCL – an example of what can go wrong for child victims in the CJS

VCL

- Vietnamese child encountered 2009 by police during a drugs raid, in locked residential premises converted into a cannabis factory
- In interview described being trafficked and stated he was a child, 15 years old
- The Competent Authority and the Local Authority identified him as a credible victim of trafficking
- CPS disagreed with that assessment, maintained the decision to prosecute
- Nonetheless – guilty plea resulted in a conviction and being sentenced to 20 months' in a young offenders' institution



VCL – an example of what can go wrong for child victims in the CJS

- Appealed to Court of Appeal in 2012 – dismissed
- CCRC reference – fresh evidence and legal submissions as to position of children as victims of trafficking and failures to investigate
- Differently constituted Court of Appeal in 2017 – dismissed again!
- Court of Appeal refused to certify points of law to Supreme Court
- Amended application to ECtHR in 2017:
 - Central plank – failure to investigate/identify him by domestic prosecution authorities resulted in breach of Articles 4 and 6 ECHR



Decision of the ECtHR

- Handed down on 16 February 2021
- Chamber decision – not yet final
- Found there had been violations of Article 4 (prohibition of forced labour) and Article 6(1) (right to a fair trial) in both VCL and AN
- Decision is first time considered the relationship between Article 4 and the prosecution of VOTs/PVOTs
- Interventions from Anti-Slavery International, Liberty and GRETA



Article 4 ECHR – principles

- Confirms “means” element is not necessary for a child victim (para 149)
- Definition of forced labour – will be fact sensitive:

“Similarly, the question whether an individual offers himself for work voluntarily is a factual question which must be examined in the light of all the relevant circumstances. However, **the Court has made it clear that where an employer abuses his power or takes advantage of the vulnerability of his workers in order to exploit them, they do not offer themselves for work voluntarily. In this regard, the prior consent of the victim is not sufficient to exclude the characterisation of work as forced labour.**”(para 149)
- Re-states that positive obligations must be construed in light of ECAT as interpreted by GRETA, and Art 4 like Arts 2 and 3 will, in some cases, impose operational measures to protect potential or actual victims. Operational measures must be interpreted in a way that does not impose an impossible, disproportionate burden on authorities (para 152-156)



Prosecution of VOTs

- No general prohibition to prosecute – Art 26 ECAT only provides for possibility of non-punishment. Compulsion does not appear to be necessary for a child (para 158)
- In certain cases, prosecution will be contrary to state’s duty to take operational measures to protect:

“The Court considers that the prosecution of victims, or potential victims, of trafficking may, in certain circumstances, be at odds with the State’s duty to take operational measures to protect them where they are aware, or ought to be aware, of circumstances giving rise to a credible suspicion that an individual has been trafficked. In the Court’s view, the duty to take operational measures under Article 4 of the Convention has two principal aims: to protect the victim of trafficking from further harm; and to facilitate his or her recovery. It is axiomatic that the prosecution of victims of trafficking would be injurious to their physical, psychological and social recovery and could potentially leave them vulnerable to being re-trafficked in future. Not only would they have to go through the ordeal of a criminal prosecution, but a criminal conviction could create an obstacle to their subsequent integration into society. In addition, incarceration may impede their access to the support and services that were envisaged by the Anti-Trafficking Convention.” (para 159)



Early identification is key

“In order for the prosecution of a victim or potential victim of trafficking to demonstrate respect for the freedoms guaranteed by Article 4, **his or her early identification is of paramount importance. It follows that, as soon as the authorities are aware, or ought to be aware, of circumstances giving rise to a credible suspicion that an individual suspected of having committed a criminal offence may have been trafficked or exploited, he or she should be assessed promptly by individuals trained and qualified to deal with victims of trafficking.** That assessment should be based on the criteria identified in the Palermo Protocol and the Anti-Trafficking Convention (namely that the person was subject to the act of recruitment, transportation, transfer, harbouring or receipt, by means of threat of force or other form of coercion, for the purpose of exploitation) having specific regard to the fact that the threat of force and/or coercion is not required where the individual is a child (see paragraphs 94 and 102 above).”
(para 160)



Unique position of children

“Moreover, given that an individual’s status as a victim of trafficking may affect whether there is sufficient evidence to prosecute and whether it is in the public interest to do so, any decision on whether or not to prosecute a potential victim of trafficking should – insofar as possible – only be taken once a trafficking assessment has been made by a qualified person. **This is particularly important where children are concerned. The Court has acknowledged that as children are particularly vulnerable, the measures applied by the State to protect them against acts of violence falling within the scope of Articles 3 and 8 should be effective and include both reasonable steps to prevent ill-treatment of which the authorities had, or ought to have had, knowledge, and effective deterrence against such serious breaches of personal integrity** (see, for example, *Söderman v. Sweden* [GC], no. [5786/08](#), § 81, ECHR 2013; *M.P. and Others v. Bulgaria*, no. [22457/08](#), § 108, 15 November 2011; and *Z and Others v. the United Kingdom* [GC], no. [29392/95](#), § 73, ECHR 2001-V). Such measures must be aimed at ensuring respect for human dignity and protecting the best interests of the child (see *Söderman*, cited above, § 81). Since trafficking threatens the human dignity and fundamental freedoms of its victims (see *Rantsev*, cited above, § 282), the same is also true of measures to protect against acts falling within the scope of Article 4 of the Convention.” (para 161)



Application to VCL's facts

Article 4 ECHR

- VCL found in cannabis factory as a child – trafficking suspected – yet he was charged with being in concerned in production of controlled drug – ought to have been referred into NRM. Concerns also flagged by the Local Authority (paras 164-164)
- CPS reviewed decision to prosecute – maintained – not credible that he had been trafficked; no further reasoning shared with ECtHR (para 166)
- CA's review after conviction did not change his status as trafficked victim - (para 168)
- Refers to the evidence of Vietnamese minors being particularly vulnerable at that time – would have been open to the CPS on basis of clear reasons consistent with the definition in Palermo Protocol and ECAT to have disagreed with the positive CG decision. Neither of those things happened.” (para 172)
- The Court find violation of Article 4 ECHR (para 173-174)



Application to VCL's facts

Article 6 ECHR

- In determining whether there has been a violation of Art 6 the question for the Court to determine: “...first of all, **did the failure to assess whether the applicants were the victims of trafficking before they were charged and convicted of drugs-related offences raise any issue under Article 6 § 1 of the Convention; secondly, did the applicants waive their rights under that Article by pleading guilty; and finally, were the proceedings as a whole fair?**” (para 194)
- Evidence of a VOT's status is a fundamental aspect of the defence which he or she should be able to secure without restriction (para 196)
- Whilst the defence legal reps could have referred the cases to the NRM, their failures to recognise or act on such indicators cannot by itself absolve the state and its agents of its responsibility to do so (para 198)
- Failure to conduct timely assessment of trafficking is also a violation of Art 6 (para 200)
- Guilty plea did not amount to a waiver of right to fair trial (paras 201-204) - the trial could not therefore be fair (para 205-210)



Practical issues and flashpoints for practitioners

- Arrest, charge and prosecution: early identification – NRM referral; requests reconsideration and judicial review
- Trial – representations to discontinue prosecution in public interest; section 45 MSA defence; abuse of process;
- Sentencing – vulnerability, culpability and positive obligations for recovery under Article 4 ECHR
- Post-conviction? – Out of time appeals, CCRC references
- Compensation and civil claims for unlawful detention, failure to protect, personal injury etc
- Immigration status – revocation of deportation order; discretionary leave as a VOT; asylum and human rights claims



Trafficking indicators – in practice

- ✓ Showing signs that their movement has been restricted or monitored
- ✓ Unable to recall facts about identity, location or situation
- ✓ Giving false accounts to authorities
- ✓ Periods of missing
- ✓ Giving the impression they're bonded by debt
- ✓ Being ashamed of having committed a criminal act
- ✓ Being fearful, anxious, withdrawn and/or apathetic
- ✓ Showing signs of physical, emotional or sexual abuse
- ✓ Living in undignified/cramped conditions/malnutrition
- ✓ Speaking as though they've been coached/instructed
- ✓ Going missing from care or missing episodes
- ✓ Hiding phones or sim cards
- ✓ Showing fear for family in country of origin
- ✓ Exhibiting distrust of the authorities
- ✓ Often receiving phone calls when at court
- ✓ Pressure to plea guilty to offences and sudden changes in plea
- ✓ Inconsistent about age
- ✓ Inconsistent accounts
- ✓ Physical signs of abuse such as scarring malnutrition, migraines, tattoos and branding on the skin
- ✓ Often report and evidence of older individuals present during the commission of the offence
- ✓ Believe that they must work against their will
- ✓ Be unable to leave their work environment
- ✓ Show signs that their movements are being controlled
- ✓ Feel that they cannot leave
- ✓ Show fear or anxiety
- ✓ Be subjected to violence or threats of violence against themselves or against their family members and loved ones
- ✓ Suffer injuries that appear to be the result of an assault



Risks and current failures in the criminal justice context

- The police, prosecution and defence lawyers are failing to identify cases where the individuals have a right to not be prosecuted and many are advised to plead guilty
- Currently we continue to prosecute victims of trafficking that have been forced into criminality
- We fail to identify them at first instance and rather than interview them as a victim we interview as suspects under caution
- Lack of Information sharing between various bodies.
- Serious risk of re-trafficking
- Denial of international protection such as immigration detention, removal and recognition as a victim of trafficking
- Physical health, mental health and welfare resulting from the failure to provide appropriate support
- Re-affirming mistrust of authority figures



Best practice approach

- A trafficked victim may be reluctant to reveal their trafficking history until trust has been established. This may take a number of meetings and require a sensitive approach.
- Be mindful when taking accounts information for risk of re-traumatisation, many victims will suffer from post traumatic stress disorder and other physical and psychological issues as a result of their exploitation.
- Be aware that inconsistencies given as to their account, age, names etc are also a trafficking indicator and do not necessarily mean that your client is not credible. Often there are inconsistencies as a result of the trauma they have experienced, but it is also common that they have been instructed by their trafficker to give a certain account if apprehended.



Exploitation typologies and common methods (i)

Victims of modern slavery are preyed upon due to a backdrop of complex issues. It is not possible to document all forms of exploitation in a short format, and there is no definitive list. Common forms of exploitation in the UK are forced criminality, sexual exploitation, forced labour and domestic servitude. Traffickers are often professional criminals and will seek to exploit vulnerable people wherever they can. Just as exploitation can come in many forms, so does vulnerability. Each has its own business model, trafficker profiles, recruitment strategies, victim profiles and methods of control that facilitate human trafficking. The NCA 2016 statistics only records domestic servitude, labour exploitation, sexual exploitation and unknown exploitation type as forms of exploitation in the UK. The Crown Prosecution Service (CPS) guidance on human trafficking acknowledges that exploitation typologies, particularly involving children, are often varied and can include:

- domestic servitude;
- labour exploitation;
- criminal activity (eg cannabis cultivation, petty street crime, illegal street trade, drug mules etc);
- sexual exploitation (brothels, closed community, for child abuse images);
- application of residence;
- benefit fraud;
- forced begging;
- illegal adoption; and
- sham marriages.



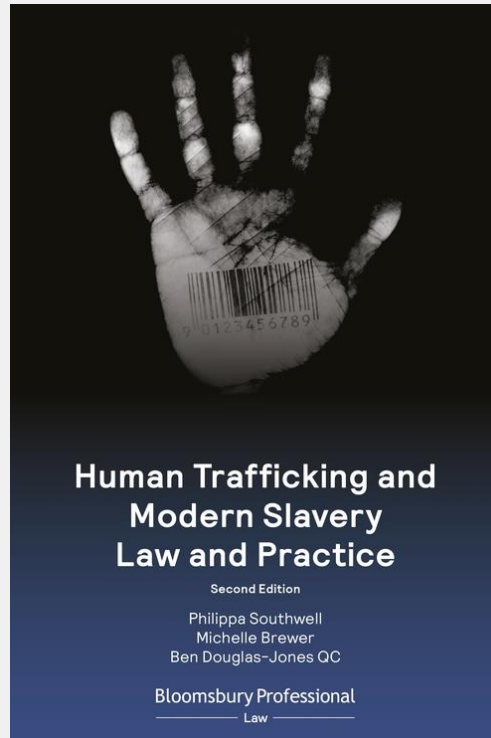
Exploitation typologies and common methods (ii)

Perpetrators use a variety of control methods to engage or coerce vulnerable individuals .

- Physical and sexual violence
- Deception
- Debt
- Isolation
- Dependency
- Emotional control
- Culture and faith
- Family involvement



Further Reading



Thank you

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