



The Fight Against Modern Slavery and Human Trafficking

THE ROLE OF VICTIM SUPPORT IN PROSECUTING THIS CRIME

BY NUSRAT UDDIN

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*(Also several state officials who have chosen to remain anonymous)

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Foreword

The Prime Minister has named Modern Slavery as the greatest Human Rights issue of our time. The Modern Slavery Act 2015 was an important step by parliament towards addressing this. Disappointingly, over three years later, while numbers of people being identified as possible victims through the National Referral Mechanism increases year on year, the number of prosecutions and convictions of traffickers remains low.

This report goes some way to explaining this, evidencing what the police have now been saying for some time, that if victims are not looked after and do not feel safe, they either won't come forward in the first place, they are too frightened to disclose and give evidence, or they disappear. In contrast, in the instances where support for victims depends on the individual victim's needs, rather than arbitrary time frames, the outcomes for prosecutions are far better.

At present the UK system doesn't work well enough for victims. This report compares the UK's support offer to that offered by the United States, Belgium and Netherlands. Comparatively victims in the UK receive support for a shorter period of time giving less certainty. I recently tabled a parliamentary question asking how many slavery and reparation orders have been made and was informed that by the end of 2017 none had been made. If the system does not work for victims, in terms of support to recover from the crime they have been a victim of, does not provide compensation for that crime, if it does not equip victims to move on to decent work, it is not hard to see why it is hard for the police to persuade victims to engage with it.

I urge my parliamentary colleagues and policy makers to read this research and take the learning from it- that we cannot effectively address trafficking nor convict traffickers if we do not look after the victims.

Vernon Coaker MP, Co- Chair APPG on Trafficking and Modern Slavery



Executive Summary

Every year thousands of individuals are identified as potential victims of human trafficking and modern slavery (VOTs) in the UK. While crime rates overall have been declining since the mid-1990s, this crime remains on the rise, with the numbers increasing each year.¹

The Modern Slavery Act 2015 (MSA) was aimed at preventing this abhorrent crime and making the UK a global leader in the fight against it¹. The focus of the MSA was to bolster law enforcement and combat trafficking through the criminal justice system. However the National Audit Office review in 2017 confirmed that there have been few prosecutions or convictions as a result of the MSA.²

The MSA has been severely criticised for failing to address victims' needs and their potential role in combatting this crime.³ For many victims, part of the recovery process following their escape is to seek justice and redress through the criminal justice system (CJS). The Code of Practice for Victims of Crime (Victims' Code)⁴ outlines clearly and precisely the level of service that victims of crime are entitled to receive. However VOTs have particular needs, which are not addressed by the Victims' Code or the MSA. Indeed, a recent report from the Anti-Trafficking Monitoring (ATMG) group, which conducted UK based research with government representatives, support agencies, lawyers, NGOs and law enforcement agencies, found that there were two main factors impacting authorities' ability to mount a prosecution.⁵ The first was inadequate support for victims and the second was lack of resources. Increased funding was promptly identified for law enforcement, however increased funding for victim support has been less forthcoming. In October 2017 reforms of the victim support system were announced by the government however lack of funding remains a key issue in improving support.⁶

VOTs have particular vulnerabilities which led them to be in a position where they were exploited in the first place. Unless and until we address these vulnerabilities and ensure that VOTs are in a stable and secure position to be able to come forward, report this crime, brave future reprisals and become credible witnesses, we will not improve our prosecution rates. If we wish to be leaders in this fight, we must enable victims to engage with the CJS from beginning to end and ensure they do not fall vulnerable to exploitation again. Many victims may still be under the influence of their traffickers and it is crucial that they are able to trust that the state system is able to meet their basic needs or they may fall prey to exploitation again.

In the face of mounting evidence that VOTs are being denied adequate services, this document collates both quantitative and qualitative research with victims and support professionals, across the western world (USA and Europe) in order to analyse what assists VOTs and facilitates their participation with the CJS in order for us to successfully prosecute traffickers.

This research shines a light on how VOTs experience the criminal justice process, the challenges they face, and whether their statutory rights and entitlements can be improved to deal with these issues. We make recommendations for changes to both policy and procedures to put the UK at the forefront in the fight against Modern Slavery and Human Trafficking.

¹ National Crime Agency statistics (<http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics/2018-nrm-statistics>)

² National Audit Office Report - Reducing Modern Slavery – December 2017 (<https://www.nao.org.uk/wp-content/uploads/2017/12/Reducing-Modern-Slavery.pdf>)

³ <https://www.antislavery.org/analysis-modern-slavery-act/>

⁴ <https://services.parliament.uk/bills/2017-19/modernslaveryvictimsupport.html>

⁵ ATMG - Before the Harm is Done Examining the UK's response to the prevention of trafficking September 2018

⁶ <https://www.baillii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/2951.html>

Summary of Findings

| | United States | Belgium & Netherlands | United Kingdom |
|--|--|---|--|
| Are victims afraid of the authorities? | Yes | Yes | Yes |
| What are the main reasons victims are afraid of the authorities? | Fear of Deportation Fear of Reprisals Distrust in authorities | Fear of Deportation Fear of Reprisals Distrust in authorities | Fear of Deportation Fear of Reprisals Distrust in authorities |
| What systems are being offered to assist victims with these issues? | Trafficking Visa (T-Visa) Long term support workers to assist with socio-economic issues Legal representation throughout the prosecution process | Short term leave Long term support workers to assist with socio-economic issues Legal representation throughout the prosecution process | Short term leave Short term support workers to assist with socio-economic issues No options for victim representation in the prosecution process |
| Which of the systems offered are actually assisting victims to engage with the authorities? | Trafficking Visa (T-Visa) Support workers Legal assistance | Support workers Legal assistance | Support workers ⁷ Legal assistance ⁸ |

This research is the first to look at the engagement of VOTs in the prosecution process. It analyses the impact of victim services on VOTs' ability to provide evidence. The research shows the positive impact of receiving appropriate support services, enabling VOTs to engage effectively in the CJS.

The results highlight that fear of deportation or removal and reprisals from traffickers are the crucial factors for VOTs' reluctance to report this crime to the authorities. This concern was found across the countries researched in the western world, and is understandable given the majority of VOTs in the west have been trafficked from countries less economically developed, where there is little protection for victims against their traffickers if they were to return.

It is clear that the US has the strongest services available to VOTs, with a specific long term trafficking visa giving legal status to VOTs, enabling them to obtain long term support services and specific legal representation through the CJS. The UK is the weakest in this respect with no specific long-term trafficking visa, only the possibility of a short-term grant of leave⁹ which subsequently needs to be extended, therefore not providing long term security. The UK only provides short term support services and no access to legal representation through the CJS. European countries do offer long term support and specific legal representation through the CJS, but offer similar immigration options to the UK.

⁷ Support workers are time limited to the NRM recovery period which aims to be 45 days

⁸ Legal assistance depends on support workers identifying the VOTs needs and availability of relevant lawyers

⁹ Although the guidance is generally 12-30months most VOTs are granted 12 months, although some even less

Summary of Recommendations

This comparative study has highlighted the strengths and weaknesses of the support systems across the west and how they affect both the VOTs' ability to engage with the police and the subsequent prosecution of the perpetrators of this crime. In light of these findings we are able to recommend that the UK develop its own support systems in order to empower VOTs to come forward, report to the police and give evidence against their traffickers.

Firstly, it is clear that access to support workers is a crucial tool the UK offers which helps VOTs to come forward, report to the police and proceed with any investigation. The majority of VOTs questioned, who had engaged with the prosecution, identified that having a support worker was a key element in enabling them to do so. Support workers can assist with victims' socio-economic issues in order to help them stabilise enough to engage with the authorities. Since VOTs felt that their distrust of authorities was a considerable hurdle in them approaching the police, having the support of a confidante they are able to build a trusting relationship with over a significant period of time is crucial to aid their engagement with the criminal justice system. Thus long-term support workers who can offer socio-economic help as well as pastoral support, should be the focus for funding in order to provide effective support for a longer period. In that way we can ensure that VOTs have adequate assistance throughout the long prosecution process. Indeed, both the US and European countries visited offer long term support workers for VOTs.

Secondly, the lack of immigration status and fear of deportation is identified by UK victims as a significant hurdle in them engaging with the authorities, as they fear removal to their country of origin. Both VOTs and their US support providers identify access to the Trafficking Visa (T-Visa) as a significant factor in their ability to engage in criminal proceedings. The T-visa allows for 4 years leave and can lead to settled status, whereas the UK authorities usually only grant one year of leave to recognised VOTs. This can be extended at the end of each year, but there is no guarantee of an extension being granted and no clear route to settlement. Although some applicants, although certainly not all, may be able to apply for asylum, this is a much longer process and more uncertain than the T-Visa in the US. All support workers in the US stated that their clients were rarely refused a T-visa, compared to asylum which had a higher threshold. Offering longer term security to VOTs will inevitably be a crucial factor in their ability to engage with the CJS; VOTs identify that the main reason they fear the police and prosecution process is their concern about removal and return to their country of origin, where their traffickers have power, control and can take revenge. Consequently, an extension to the period of leave offered to UK VOTs is strongly recommended.

Finally, VOTs in both the USA and the European countries visited are all offered legal representation throughout the prosecution process, giving them the same rights to representation and legal advice as the perpetrators of the crimes. VOTs in the USA and support providers in the European countries visited identified this as being of significant assistance to VOTs when engaging with the CJS. The lawyer can work with the prosecuting authorities to ensure that the victim is treated as such and not criminalised or punished unfairly for any of the activities in which they were forced to partake or witness. It is important that prosecution rates are improved but this should be done by pursuing those responsible for the criminal exploitation, not by criminalising the victims. This level of protection will bolster VOTs' confidence to come forward and engage with the authorities; options for this should be explored in the UK.

In conclusion the following recommendations are made for the UK:

- Extend VOTs' access to support workers to ensure socio-economic stability and pastoral support;
- Longer periods of secure immigration status for VOTs; and
- Provisions for specialist representation throughout the CJS for victims.

Researcher's Background

Nusrat Uddin is a legal practitioner who has been working on trafficking related cases since 2010. As a solicitor she represents VOTs in many respects, from assisting with immigration applications, securing suitable accommodation and financial assistance, to claims against their traffickers or the state for failing in its duties. Through this she works closely with VOTs, many of whom are going through with prosecutions of their traffickers; this gives her first-hand experience of the role of VOTs in the Criminal Justice System (CJS).

Prior to her legal career Nusrat obtained a BSc in Psychology at University College London and spent several years working in corporate banking, dealing with employee engagement and development. This experience of applying psychological theories to motivating and empowering individuals plays a pivotal role in her understanding of her VOT clients, their reluctance to go forward to the authorities, their fears of the prosecution process and how to best support them.

These are Nusrat's thoughts on why this piece of research is needed:

"In my experience VOTs are extremely reluctant to approach the police. When advising victims, I make them aware of their right to report their trafficking experience to the police but almost all are afraid of doing so. They have many questions and concerns about the CJS processes, which they need advice and reassurance about.

As soon as I analysed the proposed changes under the Modern Slavery Act (MSA) it was clear to me they would have little impact on my clients' ability to engage with the CJS. The MSA did not improve VOTs' access to services, but focused on the perpetrator of the crime. There were increased penalties against convicted traffickers, but most of my clients were too afraid to report the crimes to commence any prosecution in the first place. Furthermore, the CJS has an arduous prosecution process within which VOTs do not have any legal representation and thus nobody to advise them on criminal matters and no real voice within the prosecution itself.

We need to focus on the victim, on building their security and confidence to have a voice, to come forward, report to the police and stand up in court under close scrutiny. The journey of a victim throughout the process of prosecuting their trafficker can be lonely, confusing and frightening. The victim will be the main witness giving the core evidence for the prosecution; their account will make or break the case. More is needed to be done to advocate for VOTs and ensure they are supported throughout the investigation stages, prosecution processes and protected long term from further exploitation or reprisals."

Nusrat recently represented the lead claimant in the case of *K & Anor v SSHD*,¹⁰ which challenged the government cuts to trafficking victims' support monies. The judgement, promulgated in November 2018, criticised the government's failure to issue guidance in relation to support for victims as the MSA had set out. Nusrat hopes this research can be used to develop appropriate guidance in relation to support for victims, to reinforce the findings that VOTs need sufficient levels of funding in order to ensure they are able to engage with the CJS.



¹⁰ <https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Admin/2018/2951.html>



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Contents

| | Page | |
|----|--|-------|
| 1 | Introduction | 1 |
| 2 | Research Methodology | 2 |
| 3 | Definition of Modern Slavery & Human Trafficking | 3 |
| 4 | Meet the Victims | 4 |
| 5 | The UK Support Systems | 5-6 |
| 6 | US Support Systems and research findings | 7-14 |
| 7 | European Support Systems and research findings | 15-17 |
| 8 | Summary of Research Findings | 18 |
| 9 | Recovery from Trauma | 19 |
| 10 | Conclusions and Recommendations | 20-23 |

1 Introduction

The UK government has declared steadfast commitment to defeating modern slavery and human trafficking¹¹ and focused its efforts on targeted law enforcement and prosecution of traffickers. The Modern Slavery Act 2015 centred on longer and tougher sentences for traffickers and since the enactment of the Modern Slavery Act (MSA) there have been some highly publicised convictions.¹²

The MSA does, however, fail to address victims' obvious role in the prosecution process. The main witness in any prosecution is the victim of the exploitation. The government needs to ensure victims feel secure enough to engage with the Criminal Justice System (CJS), to support a victim in their recovery in order for them to become a credible witness and engage with the prosecution process all the way through; from investigation to trial, which can take several years.

The National Audit Office recently produced a damning report assessing the success of the MSA at the end of 2017.¹³ It set out that "there have been few prosecutions and convictions for modern slavery offences. In 2016, only 80 defendants were prosecuted under the Modern Slavery Act for 155 modern slavery offences". It went on to state that, "There has been increasing use of the Modern Slavery Act to prosecute defendants, although the overall volume of prosecutions related to modern slavery is relatively small."

Indeed, a recent report from the Anti-Trafficking Monitoring Group (ATMG) who conducted UK based research with government representatives, support agencies, lawyers, NGOs and law enforcement agencies found that there were two main factors identified by their respondents that impact the authorities' ability to mount a prosecution; the first was inadequate support for victims and the second was lack of resources.¹⁴ The Modern Slavery (Victim Support) Bill¹⁵ was introduced into the UK Parliament to address the lack of support provisions and strengthen victim protection. It proposes to extend the period of time a victim has access to specialised support and assistance by 12 months. However, the Government has not supported the provisions of the bill to extend victim care beyond the current system, although they have now agreed to pilot a programme with local authorities to provide follow-on support to improve the situation but there are many limitations to the proposals and many remain sceptical about how that will be assessed effectively.⁴

This purpose of this research is to focus on how VOTs' experience the prosecution process. We explore the challenges they face, and whether their statutory rights and support entitlements could be improved to deal with these issues and enable them to come forward, report their trafficking experiences and engage with the CJS effectively from start to finish.

We make recommendations for changes to policy and practice in order to put the UK at the forefront of the fight against Modern Slavery and Human Trafficking.

¹¹ <https://www.gov.uk/government/speeches/defeating-modern-slavery-theresa-may-article>

¹² <https://www.antislavery.org/slavery-today/slavery-uk/>

¹³ National Audit Office Report - Reducing Modern Slavery – December 2017 (<https://www.nao.org.uk/wp-content/uploads/2017/12/Reducing-Mo>)

¹⁴ <http://www.antislavery.org/wp-content/uploads/2018/09/Before-the-Harm-is-Done-report.pdf>

¹⁵ <https://services.parliament.uk/bills/2017-19/modernslaveryvictimsupport.html>

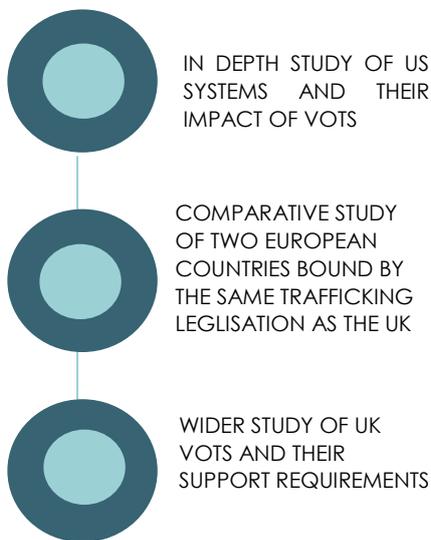
2 Research Methodology

Data was collected from support organisations and victims themselves in the USA, Europe (Belgium and The Netherlands), and the UK.

It was difficult to access VOTs directly due to their understandable reluctance to speak to strangers about their experiences. In-depth interviews were only carried out abroad with a handful of victims themselves. However around 40 support professionals, working solely or predominantly with VOTs, were interviewed, including therapists, support workers and lawyers.

Data was also obtained through a survey of VOTs in the US who are part of the CAST LA Survivors Network. Direct interviews were held with UK victims who had engaged with police, as trusting relationships could be built over a longer period of time.

The research focused on other western models and thus the US and Europe were selected. The research was conducted in three phases:



In the US data was collected from support organisations across three states; New York, Los Angeles and Washington DC. Data was also obtained through a survey of twelve survivors who were part of the CAST LA survivors' group and two in depth interviews with survivors themselves. Three key areas were identified as being unique to the US model of support; long term assistance from support workers, legal representation through the criminal justice system and the T-Visa (a specific trafficking visa) which gives long term immigration status to recognised VOTs.

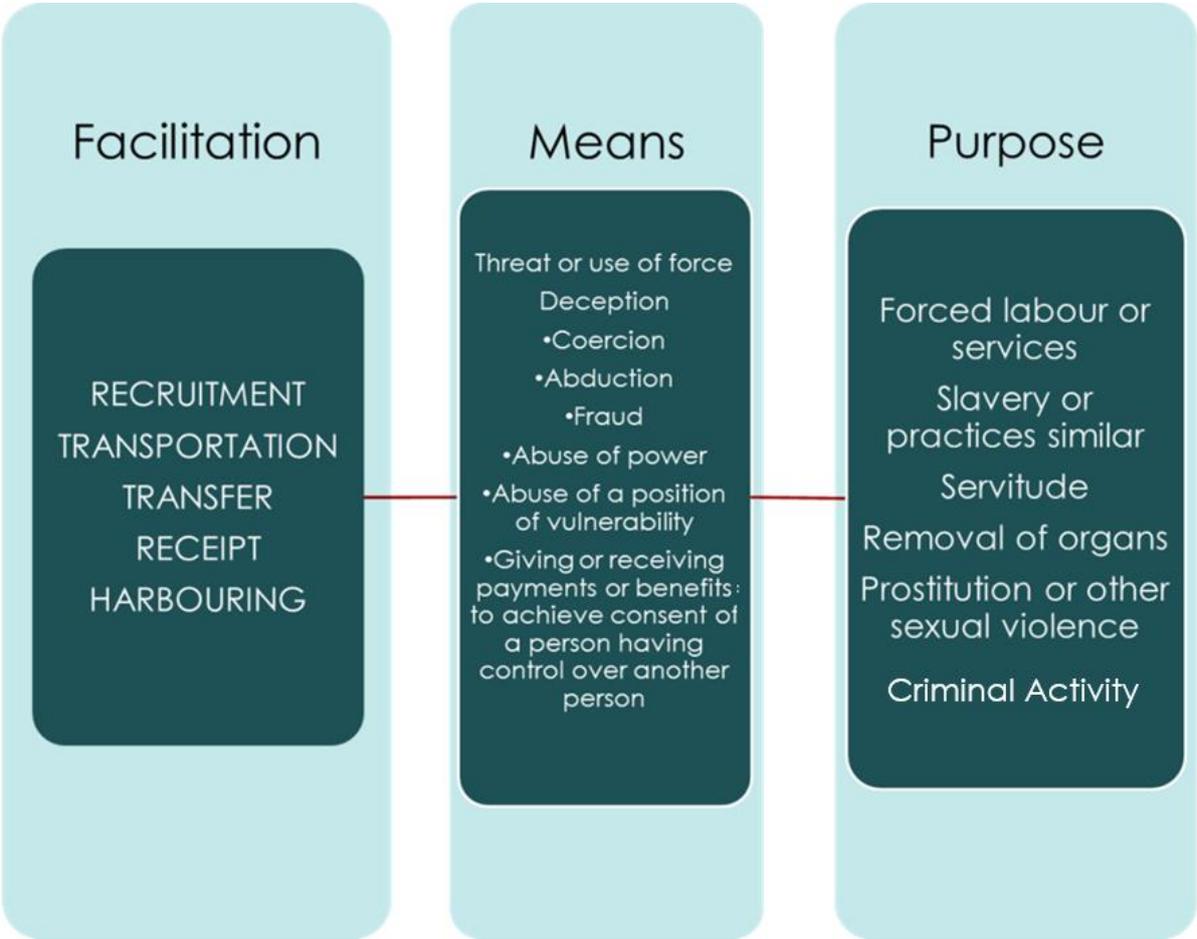
Those three key areas were then explored in two European countries who are parties to the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT). The UK is also party to ECAT. In order to select appropriate countries with good practice in support for VOTs, GRETA was consulted. GRETA is the Group of Experts on Action against Trafficking in Human Beings; it carries out visits and publishes country reports evaluating legislative and other measures taken by Parties to give effect to the provisions of the Convention. Both Belgium and the Netherlands were commended for their best practice. Thus, data was collected from support organisations in these two countries.

Lastly interviews and surveys were carried out with UK organisations who support VOTs in their recovery and assist in their engagement with the CJS, as well as VOTs who had actually reported to the police and engaged with an investigation in the UK. These were conducted to compare the data collected abroad to the situation in the UK. The results were used to confirm how the services we provide in the UK impact VOTs and ways they can be improved in line with best practice elsewhere.

3 Definition of Modern Slavery & Human Trafficking

Article 3 of the "Palermo Protocol" defines trafficking as: *the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*

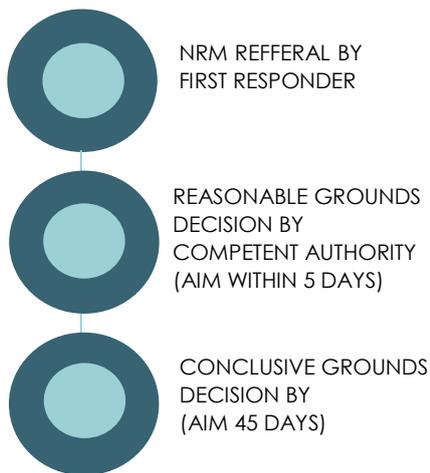
This is Modern Slavery. Legally modern slavery and human trafficking have the same meaning, however in the media human trafficking is often confused with people smuggling. People trafficking conjures up images of cramped boats crossing the Mediterranean illegally but trafficking is not only moving people; its purpose is to exploit those people to such a level that amounts to abuse and slavery; a practice that is still thriving here in this modern day despite being abolished in 1833.



Please note, in the "Means" section above, that it is not necessary for cases involving children as they are not legally able to give consent to their trafficking.

In this report we refer to all those that have been subjected to modern slavery and human trafficking as victims of trafficking and modern slavery, VOTs. However, many of these individuals would consider themselves survivors and take strength from being a survivor. In this report we are dealing with the support VOTs need in order to take them from victim to survivor. They are therefore referred to as victims while there is full appreciation that all of them are in fact survivors.

4.1 UK Support Systems



The National Referral Mechanism (NRM) is the UK framework for identifying VOTs and supporting them. To be referred to the NRM, potential victims of trafficking or modern slavery must first be referred to one of the UK's two competent authorities (CAs), the National Crime Agency's (NCA's) Modern Slavery Human Trafficking Unit (MSHTU) and the Home Office Visas and Immigration (UKVI). They are the authorities to decide whether someone is a genuine victim of trafficking. The initial referral to a competent authority must be carried out by an authorised agency known as a 'first responder', who completes the form required to send the case to a CA. There is a list of specified first responders which include the police, Home Office and local authorities but also other trafficking organisations.

The competent authority decides whether the victim is believed to be a genuine victim of trafficking or modern slavery. The MSHTU receives all referrals initially, but they will only make decisions on cases involving UK or European Economic Area (EEA) nationals who do not have a live immigration issue. When the MSHTU receives a referral with a live immigration issue, they should refer the case to the Home Office UKVI Competent Authority.¹⁶ Their role is to decide firstly whether the individual is a genuine victim and, if they are a genuine victim, whether to grant that victim a period of short term leave to remain in the UK; usually one year of discretionary leave.

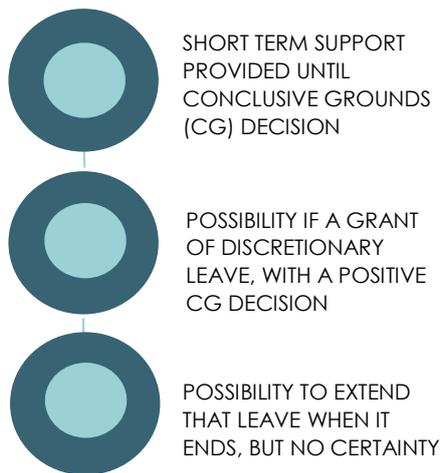
The process to decide whether a victim is a genuine victim has two stages, first a reasonable grounds decision has to be made and then a conclusive grounds decision. The NRM team has a target date of 5 working days from receipt of the initial referral in which to decide whether there are reasonable grounds to believe the individual is a potential victim of human trafficking or modern slavery. They may seek further information from the first responder or other relevant parties. The threshold at Reasonable Grounds stage is; "from the information available so far I believe but cannot prove" that the individual is a potential victim of trafficking or modern slavery.

If the victim gains a positive reasonable grounds decision, the potential victim usually enters the NRM support system and will be provided with government funded accommodation, basic subsistence monies and a support worker. If the victim does not require accommodation, they can still be provided with the services of a support worker. This support is meant to allow the victim to begin to recover from their ordeal and to reflect on what they want to do next, for example, co-operate with police, engage with therapeutic activities, look for a job or even return to their home country. This support continues until a conclusive grounds decision is made. The aim is for the conclusive grounds decision to be made within 45 days, although it is often much longer.

During the 45-day reflection and recovery period the Competent Authority gathers further information and the expectation is that a Conclusive Grounds decision will be made as soon as possible following day 45 of the recovery and reflection period. The threshold for a Conclusive Decision is that on the balance of probability "it is more likely than not" that the individual is a victim of human trafficking or modern slavery. However, the timescale for making a conclusive grounds decision will be based on all the circumstances of the case and indeed some clients wait over a year for such a decision. Once the individual has a Conclusive Grounds decision (positive or negative), they are no longer in the NRM system and they lose the support of the support worker, accommodation and subsistence monies.

¹⁶ Many victims fall through the gaps, and are not considered for leave even when they need it. This creates problems as they cannot access services without valid leave in the UK. This happens routinely with EEA nationals unfortunately, as identified in House of Commons Work and Pensions Committee Report into Victims of Modern Slavery in 2017.

4.2 UK Support Systems – Long Term



If a VOT receives a positive conclusive grounds decision they may be granted discretionary leave to remain, usually for one year, in the UK to allow them to co-operate fully in any police investigation or prosecution, or alternatively if their personal circumstances mean they require a period of leave. There are of course victims who already have a right to reside in the UK, due to being British or part of the EU, but the vast majority will need a grant of leave to remain in the UK as they will be from non-EU countries. However, what is concerning is that victims are rarely granted this type of leave for example in 2015 only 12% of victims with a positive conclusive grounds decision were granted leave to remain.

At the end of the year the period of discretionary leave may be extended for a further year but there is no definite route to obtaining long term leave. One year for many victims will not be a sufficient period of time to recover from their traumatic experiences, many of whom have suffered abuse and exploitation since childhood or for a prolonged period. Furthermore, without the certainty of their status after a year, they are unable to start a plan of long term recovery. Victims lose the assistance of their support workers; it can take months to navigate the benefits system and have accommodation put in place, by which time they will already have to start thinking about extending their leave. They will have been unable to focus on therapy or a police investigation without any stable accommodation or benefits in place.

If they remain in the UK with discretionary leave, they will need to apply for mainstream benefits and accommodation unless they are able to work and can afford to support themselves. This will be very unlikely as the majority will need at least some support for a stable period in order to recover from the trauma of their experience. However, in order to apply for benefits and accommodation, the victims will face many hurdles such as understanding the welfare system and also challenging decisions to refuse such support. This routinely happens as many welfare agencies lack understanding around the eligibility of VOTs for support granted leave to remain.

Two weeks after a conclusive grounds decision, victims lose not only their accommodation and subsistence money from the NRM system but also their NRM support worker. It takes significantly longer than two weeks to put in place benefits and accommodation. Without the assistance provided by the NRM support worker, many are not equipped to navigate the complex welfare system and can end up destitute and homeless. Thus if they had started to engage with the police, in all likelihood they will be unable to continue, as many will be unable to keep in touch with investigators while dealing with their own socio-economic problems.

The UK system is a short-term support system for VOTs and does not provide the victim with any long-term support. These inefficiencies have been identified in the review of the National Referral Mechanism published on 11 November 2014 and it was recommended that the system be overhauled. The Modern Slavery (Victim Support) Bill is currently being considered in parliament. The proposal is that NRM support be extended to allow for one year of leave for all victims automatically plus access to a support worker for the full duration, the findings of this report endorse the need for these changes. However, solutions for longer term support have not been put forward yet and the findings from this report show both the US and other countries in Europe have longer term support in place, thus the UK has far to go before being a global leader in this field.

5 Meet the Victims

These are a few examples of the VOTs that we have encountered in the UK, and each case illustrates how support services affected their ability to trust the authorities and engage in the CJS.

VOT A - A came from Albania. She thought her boyfriend in Albania loved her but he started forcing her to sleep with men for money and then sold her to some men who brought her to London. In London she was locked in a room and forced to sleep with several men each day. She managed to escape one day and went to the police who referred her into the NRM and she was supported by the specialist trafficking safe house, Bakhita House, and provided with intensive support. They organised several groups and activities to empower her and help with her recovery. She had several interviews with the police.

After several months at the safe house she moved to state run support, but was sent to accommodation far away from her activities and established support network. She was given a shared room, but this was re-traumatising for her as she was again in a room alone, where others would be coming and going without her control. She struggled to sleep, her mental health deteriorated and she was unable to access her support network and recovery activities. She lost contact with the police and is still requesting support.

VOT C - C's parents passed away in Nigeria when she was thirteen years old. She was told she was coming to London for a better education. She was given a false passport which said she was an adult, C couldn't read and did not know that. When she got here she was forced into prostitution until the age of 16 when she managed to escape. She was then referred to social services, who interviewed her but did not support her as they did not believe her age due to her false passport. Her finger prints were also found at a brothel where a murder had taken place and as a result the police interviewed her. She was refused asylum by the Home Office and lost contact with the police.

Understandably C was becoming mistrusting of the authorities after her experiences. However, she was then helped by an organisation called the Poppy Project who were a specialist trafficking organisation providing support to VOTs, independent of the state. Her support worker got her a lawyer who challenged her age assessment and got her into foster care and college. She was referred into the NRM and recognised as a VOT. Her immigration lawyers appealed the asylum decision and she was granted asylum. She engaged with the police and spent several months assisting them with their investigation of several brothels. The Poppy Project has since closed.

VOT B - B came from the Philippines to Saudi Arabia in order to work as a domestic servant for a household, she needed to earn enough money to sustain her mother and siblings in the Philippines after her father passed away. She was kept locked in the house she was working in and she was not allowed to leave. The employer would send some money home for her however she was not paid money herself. She was verbally abused and expected to work without any breaks at all hours of the day and throughout the week. She was brought with the employers when they moved to London for business. It was there that she managed to escape.

She was homeless for a while until she was helped by another lady from the Philippines to go to the police. By that time her employer had already gone to the police and reported her as missing and accused her of stealing their jewellery. The police did not believe that B had been exploited. She did get an immigration adviser however she was mistrusting of the authorities by then. She did not want to be referred into the NRM, she did not want to seek asylum and she decided she wished to return to the Philippines.

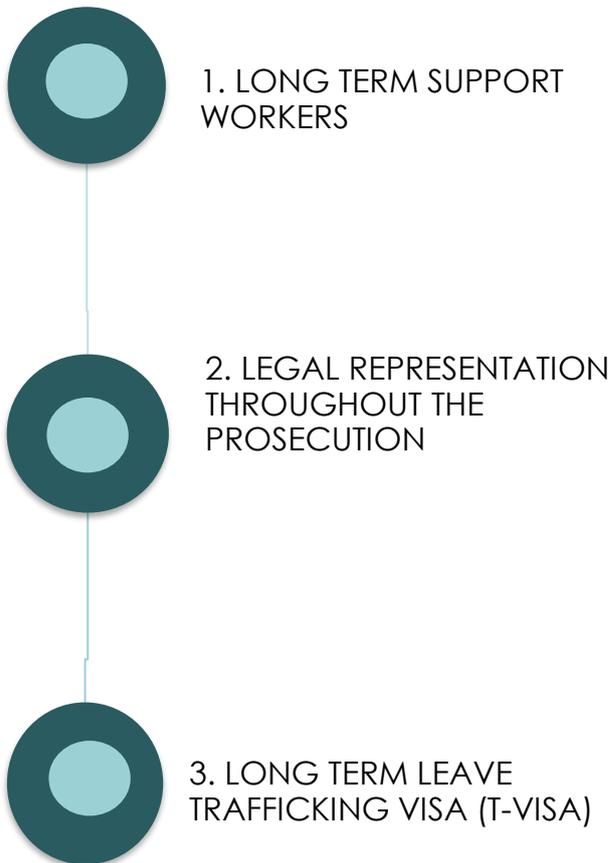
VOT D - D was born in Vietnam but as an adolescent was sent to earn money by his family, he was brought to the UK by a criminal gang at the age of 15 and forced to cultivate cannabis. He was told by the traffickers that they had spent a lot of money in bringing him to the UK and he would need to pay them back before he would earn anything himself. When he tried to leave they threatened his family in Vietnam. He was beaten and locked into warehouses where he helped grow cannabis. Police raided one of the cannabis factories and arrested D along with the others who had been locked into the factory. They were all convicted of cannabis cultivation and sent to prison, D was aged 16.

After prison D went straight to immigration detention as the Home Office intended to remove him to Vietnam. In the UK it is unlawful to detain a child or victim of trafficking in immigration detention. He did finally obtain the assistance of a lawyer at the immigration removal centre detention. The lawyer referred him into the NRM, secured his release, looked into appealing his conviction and applied for asylum. Unfortunately, his asylum was refused and at this point D started losing faith in the authorities' ability to assist him, he feared that he would return to Vietnam and face his traffickers and his debts. D went missing and it is feared that he was re-trafficked.

6.0 Research

The next two sections of the report will focus on the research carried out abroad and in the UK. We analyse how the support provided in other models helps victims in similar situations to the examples provided earlier in this report and look at what we can learn from them.

This report will focus on data and analysis from the US first and foremost, as their model provided the most comprehensive long-term support to victims through the prosecution process. The key factors of this were three elements of support as follows, we will look at each in turn in detail.



6.1 US Support: Support Workers

“One of the great things about US law, the Trafficking Victims Protection Act 2000, is the acknowledgement that you can't have successful prosecution without protections for survivors”.
US Support Worker

US VOT organisations support each VOT with a lawyer and a support worker (“case-manager”), some organisations have in house therapy but the majority source this externally. The lawyers have a clear role in advising each victim on their legal rights and entitlements whereas support workers provide emotional support as well as practical help in accessing housing, financial support, and other services needed.

“Straight away victims feel that there is a team supporting them and they are not alone”. US Lawyer

The support workers focus on stabilising VOTs socio-economic situation so that they are then able to engage with the lawyers and legal proceedings. This model ensures VOTs receive appropriate support at varying stages of the prosecution process. What is key is that the support workers assist VOTs for as long as they need, for the longevity of the prosecution and longer if necessary.

“If the client's personal life is a mess there is no way they can concentrate on a trial, if they don't have financial support or a roof over their head”. US Support Worker

The emotional support of a support worker boosts VOTs' self-esteem and work towards gaining the confidence needed for the CJS.

“My support worker changed thinking, changed my life. She told me I'm 'undocumented' not illegal and I believed” US Survivor.

One support worker gave the example of a man who had been labour trafficked to the US. His traffickers introduced him to crack cocaine in order to keep him under their control. As a result, he became dependent on them, despite the exploitation he was suffering at their hands. When he finally left the traffickers, he was homeless and didn't even have a mobile phone. He had reported to the police but was unable to engage with the police investigation as he kept going missing; he couldn't be contacted. When he finally got a support worker they assisted him to find accommodation, but as he struggled with his addiction there were times when he would go missing and turn up at the support workers office after weeks of no contact. In that state it was impossible for him give evidence to aid the prosecution. The support workers assisted him to enter a drug rehab programme, they got him a phone, access to subsistence monies and the therapy that he needed to stabilise. He was then able to go on to engage with the prosecution process, he gave evidence and a conviction was secured for the traffickers who had exploited several other victims as well.

“Giving evidence in open court and having the defence attorney going at you the way they usually do can be a traumatic experience, so the social workers debrief to deescalate any emotional trigger that might occur and usually do occur.” US Lawyer

From the outset of the process it is important that victims are clear about their rights and entitlements.

"They come to us with their myths and the deceptions of their traffickers and their community." US Lawyer

"In many communities there is a shame of receiving help from anyone especially the state, they came here under the promise of a job. Support workers help them overcome these initial barriers and build trust in the system. Most of our victims come from countries where there is already a distrust in law enforcement." US Support Worker

A particular concern for victims is often safety of themselves and their families if going ahead with a prosecution.

"Case-managers work with each client to develop a safety plan and constantly keep it under review, but ultimately it has to be the client's decision whether they want to go ahead". US Lawyer

Throughout the prosecution process the victim will need to be retelling and thus reliving their trafficking experiences and their support workers works closely with them to manage that. Particularly as the trial approaches, the victim will be very anxious about speaking at court or seeing their trafficker, that is where they require assistance from their support workers.

"We ensure we are providing emotional support at key points in the process, but also ensure that they are getting that appropriate therapeutic input to assist with traumatisation." US Support Worker

US support workers provide crucial support to not only stabilise the victim's socio-economic situation, in order for them to be able to engage with law enforcement, but also the vital emotional support to get through the long and complicated process.

6.2 US Support: Legal Representation

"Power is information, I hope every victim has the right to obtain clear and concise information"
US Survivor

The Protection of Victims Act 2000 sets out rights for victims to have their own legal representation when involved with a criminal prosecution against the perpetrator of the crime they are victim to. It is important to ensure a fair trial so there will be a limited amount that the victim can influence the actual process and procedures, but a victim's attorney can represent their victim client in court throughout the prosecution. The premise of the law is to ensure that victims are more informed and thus empowered, that their rights are protected so they are not criminalised in the process, and thus they feel secure to go forward.

A victim's attorney can:

- Provide criminal legal advice through the prosecution process from the initial reporting to the police at the outset and continuing at each stage
- Advise in linked legal proceedings, e.g. custody proceedings in relation to children
- Provide client attorney privilege, where a victim may be worried about incriminating themselves by giving evidence if they have been forced by their trafficker to commit crimes; the lawyer can advise appropriately and deal with these issues in order to protect the VOT from being prosecuted
- Make motions on behalf of VOT so that evidence is not used to criminalise the victim
- Assist VOTs with preparing for trial for example dealing with aggressive or suggestive questioning
- Be a confidante for VOTs when they are having doubts or feeling afraid, somebody who has been there with them from the outset, that they trust has their best interests in mind
- Help with getting previous convictions appealed and expunged. These convictions are often as a result of the traffickers forcing the victim into criminality. Obtaining a job and housing are more difficult with a criminal record so this is an important role.
(Note since this research took place the trump administration has limited the funding for expunging victims' criminal records)

A detailed picture of the impact of this role was ascertained through data from VOTs and their lawyers.

"We have a motions-based crime victims' rights practice. So, we file a formal notice of appearance when our client is a criminal victim witness. We ask for things like the client has a right for a speedy trial the same way the defendant does. We file motions to ask for restitution for the victim, we make sure they are consulted." US Lawyer

"Initially clients are scared to report to law enforcement, we reassure them that we will be there the whole way, from the first meeting all the way through the process to the end, you have to build trust and knowing that the same person will be there through the whole journey by their side is something usually very reassuring." US Lawyer

"When you have victim rights attorney on your side who can explain the process at court, gives a level of confidence. Going through the details of how the court is laid out, what defence attorney will ask, how to handle that and dealing with anything in the police reports that were contradictory, it's no different from what the Defence attorney will do for the Defendant so why can't the victim not be prepared in the same way?" US Lawyer

"We can advise them under attorney-client privilege and then advise them and advocate for them with the prosecutors. That ensures that there are no surprises when the victim gets on the stand which in the end is better for the credibility of the victim as a witness for the prosecution, to have an attorney and/or case- manager... to accompany the victim to court appearance. During this process victim/survivor may get triggered and re-traumatize, especially if the trafficker also appears in court". US Lawyer

"Dealing with aggressive or suggestive questioning from the Defence, their attorney can prepare them for that. For example, a defence lawyer may use compound questions, "Mr X, your friend, gave you his card?". The witness may say yes meaning Mr X gave the card but in turn is agreeing that he was her friend, whereas the witness should clarify yes, he gave the card but was not her friend. These techniques make her a better witness and strengthen the prosecution case; however, the prosecutors would not have the time or resources for this and indeed it's not their role." US Lawyer

"Having somebody in your corner and fighting for you, you really have a voice through the process. Having the same attorney present all the way through, who always has your interests as a priority builds trust in a way that the prosecutor cannot do." US Lawyer

"One of the other case managers mentioned that just attending with an attorney will mean the authorities give that victim more respect, you know nobody is going to pull the wool over their eyes or take advantage of their lack of knowledge, when there is an attorney sitting there even if they are not going to say anything the prosecutors watch their step and it means the victim is not messed around." US Lawyer

"If we are involved at an early enough stage we can make motions around what evidence is used in the trial, in order to protect the client's criminal liability issues. But then they could still be prosecuted later so we can work with them and the prosecution to protect them from future prosecutions as well. For example, we can request 'use immunity' so that the things they can in their testimony can't be used in a prosecution against them". US Lawyer

The key is that VOTs have access to a representative with knowledge of criminal court practices and are experienced at advocacy within that setting. As they know the processes involved throughout a prosecution, they can inform the victim and thus empower the victim's experience. They can also advise clients about their own criminal liability and ensure that the victim is protected.

6.3 The Trafficking Visa: T-Visa

The US immigration authorities provide a specific trafficking visa for VOTs to obtain legal status to remain in the US if they report the crimes to the police and engage with any investigations or prosecutions, indeed the visa can also lead to eventual citizenship. This is unique model which does not appear to be replicated anywhere in the western world. The criteria for the T-visa are:

1. The client is a victim of trafficking
2. They are present In the US on account of such trafficking
3. They are co-operating with Law Enforcement, and
4. Would face considerable harm on return to their home country

The evidence needed to demonstrate the first two criteria is provided through a detailed statement that is prepared by the VOT with an immigration lawyer. The third criteria can be fulfilled by reporting to the police and complying with any reasonable request to assist in the investigation or prosecution of their case, but if the authorities do not investigate the VOT will have fulfilled this requirement by simply reporting. The last requirement is again set out in the statement and objective evidence may be relied upon about the country of origin, however this threshold of "considerable harm" is a significantly lower one than that threshold needed to claim asylum successfully. All legal representatives interviewed for this report concurred that once a VOT fulfils the first three criteria their application is rarely refused.

There are two exceptions when you do not need to report to the authorities and fulfil criteria three. Those are the trauma exception; when the client is too traumatised to report and the other is the minor exception; when dealing with a child.

The system entitles VOTs to the following:

1. Apply for family members who may be in danger to be brought over to the US for their safety and reunion;
2. While awaiting a t-visa obtain a short-term visa, continued presence (CP), allowing access to benefits or to work;
3. When granted the T-visa obtain status for 4 years, then apply for a green card, and eventually they can apply for citizenship;
4. When granted the T-visa they can work, apply for benefits and housing, obtain student loans for education, or start training.

Through in-depth interviews with immigration lawyers who represent VOTs in applying for the T-visa as well as support workers, a detailed picture of the impact of this role was ascertained.

"Most victims I work with assume authorities are anti-immigrants. That is why the T-visa is so crucial, as it's the first time a victim sees the authorities giving them a chance to stay here. It gives the victim some control over the application process so it can be an empowering process."

"Gaining status is so important for helping victims' fears of deportation, however their fears are so engrained that even victims with status called me after Trump came into power and asked me what it would mean for them and whether their visas would be taken away."

"Having a T-visa not only gives reassurance, it gives victims a sense of pride, they are proud that they can build their life here, make their living and support themselves. Victims don't want hand-outs they just want the chance to live like anybody else."

“Clients finally have faith in the state once they get their status. They feel vindication that the state truly believes them, that they accept that something bad happened to them and they want to help them. That’s when the victim wants to help the state, they want to help them in their investigations.” US support worker

“When you consider the victim’s background, what they have been through and their vulnerabilities, obtaining legal status is not only recognition but also remedying their vulnerabilities and making their rights tangible. Accessing the T-visa is such a crucial factor on a practical level as a person is able to stabilise, they are given the right to work, earn money and find stable housing and move beyond the trafficking. The hopes of what the T-visa can provide is enough to motivate and stabilise, in a way to deal with the struggles and difficulties of the legal processes in the US, including prosecutions.”

“Stabilisation is key, especially with victims from other countries, because if your fear is that back home your trafficker is going to be able to do whatever they want to do to you, then there is no reason to participate with the prosecution if you are going to go home eventually, and law enforcement know that’s true and are in complete support of the T-visa system for that reason. Although sometimes it can be difficult in the case as you don’t want that to be used by the defence to undermine your client; to suggest that they are making up the case to get status. But equally if law enforcement know that it’s going help the client talk to them they are quick to offer it and aside from that, CP is a law enforcement tool and they know it causes stabilisation and more faith in our system.”

“The idea of deportation is my clients’ greatest fear. One of my clients begged to have her children brought over as quickly as she could as one of her friends was executed by the traffickers gang, they cut off her breasts and arms and put them on pikes around town, she was terrified to go home and terrified for her children who were still there.”

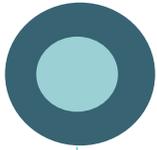
“You can apply for family reunion on the T-visa, it’s not a straight forward process but it gives victims hope, they can make do for the short time, relocate their children temporarily it gets them through until their children or family can be reunited.”

“The T-visa is unique but you have to remember America’s history with trafficking, it’s similar to the UK, but America’s history with slavery in general is that we held on longer than most. To the point that when people came from the UK and told us how horrified they were that we had slaves, that’s what pushed us to turn that around. America doesn’t like being last so in this we were first and we really tried to get some good laws in place. Law makers want to see this and want to be able to say we did this good thing and something that helped people and that’s how we got trafficking law through here.”

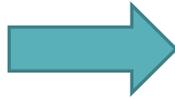
The T-Visa gives victims an ability to stabilise long-term. It builds trust with the authorities as most foreign national victims think they have no rights and thus fear the authorities. When victims fear deportation and safety in their home country, most would not give evidence without the possibility of staying long term in the US. Having the ability to bring your family to safety and being able to apply for them from the outset of the process is crucial. The T-visa allows the victim to truly build a future, a new life and move forward from their trafficking experience. It empowers them and provides the safety needed to engage with law enforcement.

6.4 US Research Findings

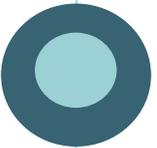
We asked support workers and victims in the US the three questions below. The results are clear that fear of deportation is the biggest hindrance to VOTs coming forward to the authorities in the USA. The T-Visa is the biggest aid to VOTs being able to go forward with the prosecution process. Support from support professionals was also a key factor in assisting VOTs with engaging with the CJS.



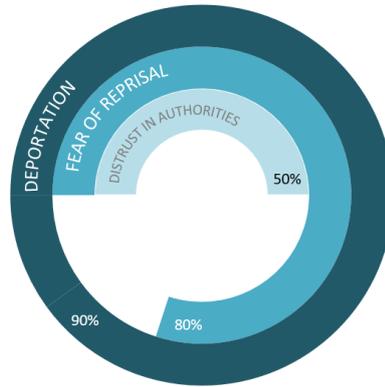
Are victims of trafficking afraid of reporting to the authorities?



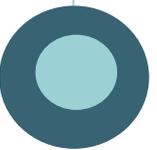
Of all the US VOTs interviewed and surveyed 83.33% said that they were initially afraid to report to the authorities.



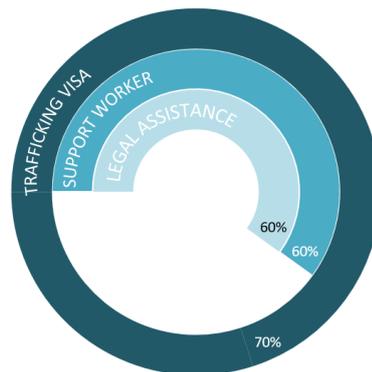
What are the reasons that victims fear the authorities?



VOTs and support professionals stated that the reasons for fearing the authorities were concern over deportation, reprisals and distrust in the authorities.



What support elements assist victims with these issues in order to engage with the authorities?



Again, both VOTs and support professionals agreed that the key elements assisting VOTs through the prosecution process was the prospect of secure long-term immigration status, assistance from their support workers and their lawyer.

In the next section we will compare these findings with research from Europe and the UK.

7.1 European Support

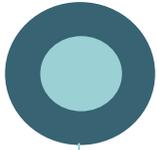
Upon the recommendation of GRETA, the two countries that were chosen to research in Europe were Belgium and the Netherlands due to their good practice models of support for VOT. Both countries adopt an NRM system like the UK with limited leave to remain potentially granted at the end once a VOT is recognised; with no T-visa and only the potential for long term status through applying for asylum. However, there are some key differences in their support systems compared with the UK.

| Belgium | The Netherlands | UK |
|---|---|---|
| Accommodation provided within the NRM with support workers and legal advisors within the accommodation. | Accommodation provided within the NRM with support workers and legal advisors within the accommodation. | Accommodation provided within the NRM only . If accommodated within a safe-house support worker are provided within the accommodation. However only around 20% of victims receive safe-house accommodation. If accommodated elsewhere support workers can provide outreach support. Legal advice is sought separately. |
| Support workers assist after the VOT leaves NRM accommodation and can assist for as long as the VOT needs regardless of status. | Support workers assist after the VOT leaves NRM accommodation and can assist for as long as the VOT needs regardless of status. | Support workers can only assist for the duration of the NRM process. |
| Legal support is available for victims to be represented through the prosecution process. | Legal support is available for victims to be represented through the prosecution process. | Legal support is not available for victims to be represented through the prosecution process. |

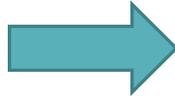
Again, European VOT organisations support each VOT with a lawyer and a support worker, and these are usually within the accommodation facilities provided by the state. The support system surrounds them with a team who they can build relationships with. The support workers can support VOT not only during the initial NRM period but most importantly, they can assist them long term for as long as they need. This is particularly different to the UK model where VOT are only provided with short term services while they are within the NRM, and after that they are left to navigate the benefits support system by themselves. Furthermore, in both Belgium and The Netherlands legal aid is available for VOT to be represented within the criminal prosecution process and thus VOT can have legal representation throughout the prosecution, providing similar support to that which is available in the US.

7.2 European Research Findings

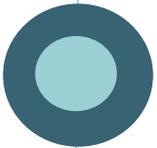
We asked support workers and victims in the UK, Belgium and the Netherlands the three questions below. Fear of deportation was the biggest hindrance to VOTs coming forward to authorities in Europe. Support from support professionals was the key element assisting VOTs with going forward in the CJS however options for immigration need to be improved in order to assist victims.



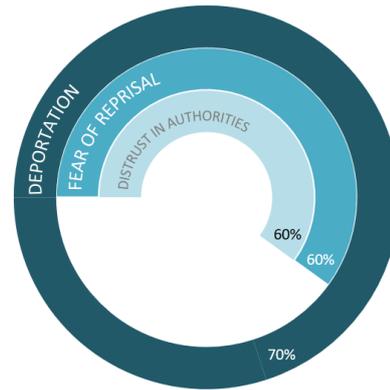
Are victims of trafficking afraid of reporting to the authorities?



Of all the European VOT interviewed and surveyed 90% said that they were initially afraid to report to the authorities.



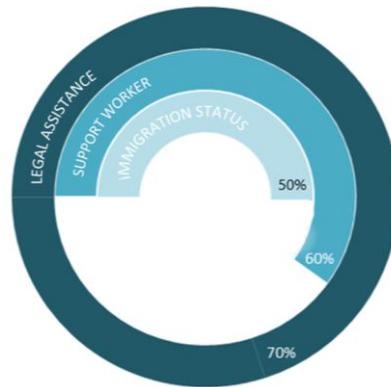
What are the reasons that victims fear the authorities?



Both VOTs and support professionals stated that the reasons for fearing the authorities were concern over deportation, reprisals and distrust in the authorities.



What support elements assist victims with these issues in order to engage with the authorities?



Again, both VOTs and support professionals agreed on two key elements of support for VOTs through a prosecution: assistance from lawyers and support workers. UK VOTs were questioned in detail about the reasons. They outlined that support workers were key to helping them stabilise, through providing access to accommodation, money, food, social and educational activities as well as therapy when needed. Victims felt that access to lawyers was crucial for them to help understand their legal rights and entitlements in the UK.

However, immigration options scored significantly lower than it did in the US. UK victims explained that there was no certainty about their future with the immigration options available. Therefore, the options were not assisting VOTs to go forward with the prosecution process. VOTs said that short term leave was not enough, as it took a long time to get benefits in place and they did not know if their leave would be extended. The uncertainty made them continue to fear removal and the authorities. Those who had applied for asylum, knew it was a long process with no guarantees, many had been refused and were awaiting their appeal and thus were again facing the same uncertainty.

7.3 UK Support: Support Workers

From the data gathered, we have ascertained that effective support from support workers does assist VOTs to engage with the prosecution process. However, no funding has been increased for state run victim support as yet.

Within the UK two organisations, Bakhita House and Hope for Justice were interviewed for this research. Both provide intensive support services for VOTs that are not state funded and run independently of the UK NRM system. Their services support VOTs with navigating the NRM system and accessing legal advice in order for them to access services required, however these two organisations are not dependant on VOTs having immigration status or being within the NRM system, therefore they are not constrained on how they support them. Resources are not as limited so if victims need extra support or monies for services support workers are able to access them in order to assist.

Support providers at these organisations mentioned key differences between the support they provide compared to what state providers are able to; mainly the restraints on time and resources for their VOT clients. Some support workers had also worked at state providers, and outlined they were over-stretched and unable to give enough time to build such strong relationships with their clients and understand all their support needs in order to obtain the relevant funds and services.

Furthermore, as outlined in chapter 3, the NRM support services are time bound until two weeks after the VOT leave the NRM, which is an insufficient time to secure move on accommodation, benefits and any other support services. Both Bakhita House and Hope for Justice are not constrained in this way and are therefore able to provide intensive and personalised support for as long as each victim requires; much longer than the NRM system would allow. Both organisations can assist VOT clients with reporting to the police, engaging with criminal investigations and giving evidence at trial.

So how does this support assist VOTs with engaging in the prosecution process? There is now data to show how the clients supported by these two organisations have assisted criminal prosecutions.

Bakhita House 2017 data:

- 45 out of the 78 VOTs supported in 2017 were working with the police or had reported the crimes committed against them.
- 6 prosecutions of traffickers were secured as a result of evidence given by Bakhita House VOTs. Another 3 cases were proceeding to court.
- 47 years in prison, total, for the 6 convicted traffickers, thanks to Bakhita House VOTs.

Hope for Justice 2018 data:

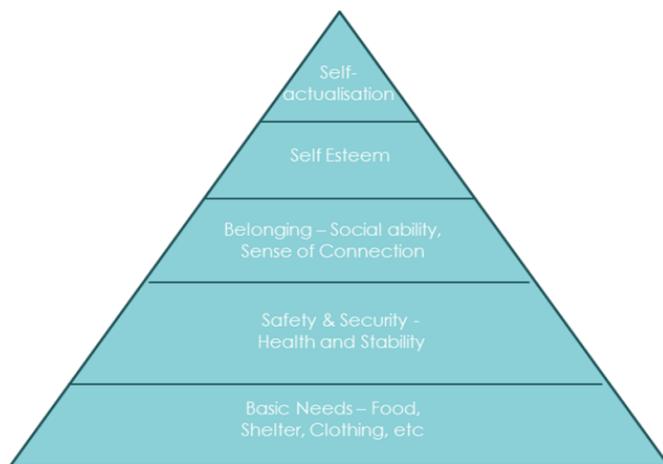
- As of August 2018, 73% of VOTs within Hope for Justice's main support service had engaged with or were able to engage with a criminal justice process.
- Between January 2013 - August 2018 - 100% of the VOT within Hope for Justice's main support service who were called to attend trial were able to attend.
- Between January 2013 - August 2018 of the VOTs Hope for Justice supported through to criminal trial - all bar two cases resulted in a successful conviction (the two cases were discontinued on points of law not victim disengagement).

When compared with the statistics of the country as a whole, the difference is stark. In 2016, 3804 people were referred into the NRM in the UK, but only 195 people were suspected, investigated, or arrested for trafficking persons, 98 were prosecuted and 39 were convicted. The evidence promoting adequate support as a method for enabling effective and successful prosecutions in the UK is clear. This verifies the findings in this research across the western world and substantiates the recommendations to improve VOT support in the UK.

8 Recovery from Trauma

In order to understand these findings, it is important to understand how each element of the services aid a victim's recovery and empowers them to engage with law enforcement. Every victim's experience will be unique; however, the majority will have faced trauma to some degree in their trafficking situation. Support services that assist VOTs to recover from their experiences help deal with their trauma.

The Shattered Assumptions theory was developed by Janof-Bulman in the 1980s and identifies that trauma changes the core beliefs and views, it shatters assumptions that the world is a meaningful and just place, people are kind and trustworthy and the self is invulnerable and has some control. It is crucial that the authorities work to rebuild that trust in the victim; only with the right support services will victims be empowered to move forward and to engage with the CJS.



Maslow's theory is that every person is capable and has the desire to move up this hierarchy of needs toward a level of self-actualization. Unfortunately, progress is disrupted by a failure to meet lower level needs. Indeed, the lower levels each need to be achieved to some extent before a person can move on to achieve those higher up the pyramid. A victim who has endured significant trauma will need even more support with these areas in order to move

It is clear that without the first three levels of needs met a victim of trafficking will not have the self-esteem and confidence needed to move forward and engage with the authorities, to give evidence against their traffickers and ask for redress.

The data from victims and support workers across the globe detailed in this report corroborates this. When asked what the victims need when they first flee their trafficking situation, the response was clear; the victim's priority is the basic needs of housing and subsistence monies (level 1 needs). When asked what stopped victims from coming forward and reporting to the police earlier, it is clear that victims distrusted the authorities and feared reprisals from their traffickers against themselves and their family (level 2 needs). The majority of victims that had secured immigration status said having a right to reside helped them with engaging with the police and prosecution process, as they were able to stabilise and build a future in one place to establish a place of belonging (level 3 needs).

It is clear that the process of moving through the first three levels is a lengthy course; especially where victims have been abused for years, decades and in some cases their whole life, this process can take several years and indeed some may never fully recover. In any case the UK model of support clearly falls short of meeting these needs as victims are only entitled to accommodation and support in the NRM process, which is at the moment set at 45 days. Although it can be longer, it is always uncertain for the individual how long it may be. As mentioned previously, the current Victim Support Bill is for support to be extended to a year. Without longer term stable support, it will be almost impossible for the majority of victims to recover or at least stabilise. In order to gain the confidence and self-esteem required to see through a lengthy prosecution of their trafficker, often several years long, much lengthier support will be required. Thus in order to actualise our government's resolute stance on law enforcement and increasing prosecution of traffickers, longer term status and support services need to be in place.

9 Summary of Findings

| | United States | Belgium & Netherlands | United Kingdom |
|--|---|--|--|
| Are victims afraid of the authorities? | Yes | Yes | Yes |
| What are the main reasons victims are afraid of the authorities? | Fear of Deportation Fear of Reprisals Distrust in authorities | Fear of Deportation Fear of Reprisals Distrust in authorities | Fear of Deportation Fear of Reprisals Distrust in authorities |
| What systems are being offered to assist victims with these issues? | Trafficking Visa (T-Visa) Long term support workers to assist with socio-economic issues Victim representation throughout the prosecution process | Possibility of grant of short term leave to remain which can be extended Long term support workers to assist with socio-economic issues Victim representation throughout the prosecution process | Possibility of grant of short term leave to remain which can be extended Short term support workers to assist with socio-economic issues within the NRM only No options for victim representation in the prosecution process |
| Which of the systems offered are actually assisting victims to engage with the authorities? | Trafficking Visa (T-Visa) Support workers Legal assistance | Support workers Legal assistance | Support workers Legal assistance |

This research is the first to look at the engagement of VOTs in the prosecution process. It analyses the impact of victim services on a VOTs' ability to provide evidence. The research shows the positive impact of receiving appropriate support services, enabling VOTs to engage effectively in the CJS.

The results demonstrate how fear of deportation or removal and reprisals from traffickers are the crucial factors for VOTs fearing reporting this crime to the authorities. This concern was found across the countries researched in the western world, and is understandable given the majority of VOTs to the west are trafficked from countries less economically developed, where there is little protection for victims against their traffickers if they were to return.

It is clear that the US has the strongest services available to VOTs, with a specific long-term trafficking visa giving legal status to VOTs, enabling them to obtain long term support services and specific legal representation through the CJS. The UK is the weakest in this respect with no specific long-term trafficking visa, only the possibility of short-term grants of leave (which as outlined above only a small proportion of victims actually receive) which subsequently needs to be extended, thus not providing long term security. The UK also only has short term support services and no access to legal representation through the CJS. European countries do offer long term support and specific legal representation through the CJS, but offer similar immigration options to the UK.

10.1 Conclusions

This research has highlighted many of the concerns of victims of modern slavery and their support workers across the US and Europe. The results show similar patterns, that victims of trafficking require long-term stability in order to recover. Longer-term immigration status enables longer-term support from both a legal and socio-economic perspective. The prosecution process can be a long and complicated process and without this support in place, victims struggle to engage with the CJS. The US and Europe both have models for long term support for victims; however, the UK is lagging behind.

The Modern Slavery Act has been criticised for its focus on law enforcement and lack of victim support.¹⁷ The National Audit Office recently produced a damning report assessing the success of the MSA at the end of 2017.¹⁸ It set out that “there have been few prosecutions and convictions for modern slavery offences. For example in 2016, only 80 defendants were prosecuted under the Modern Slavery Act. It went on to state that “there has been increasing use of the Modern Slavery Act to prosecute defendants, although the overall volume of prosecutions related to modern slavery is relatively small”. This research has highlighted the importance of adequate support for effective law enforcement; to enable a victim to engage in the prosecution process. Without appropriate victim support the UK will not see a marked improvement in its successful prosecution rates.

1. Support workers

The Modern Slavery (Victim Support) Bill¹⁹ currently going through parliament, proposes that victims should have one year of leave guaranteed if they are recognised as a VOT and support workers should be provided throughout that year. This would be a significant step to improve the UK's offering, however, both the US and mainland Europe have access to support workers for as long as a victim requires. Indeed, the vast majority of prosecutions take several years and consistent support is extremely crucial throughout that process.

The research findings in this paper demonstrate that access to support workers is a crucial tool which the UK is offering and helps VOTs come forward to report the crime as well as proceeding with an investigation. The majority of UK VOTs questioned, who had engaged with the police and prosecution process, identified that having a support worker was a key element in enabling them to do so. Support workers assist with victims' socio-economic issues in order to help them stabilise enough to engage with the authorities. Support workers built VOTs trust by taking the time to understand their needs and providing access to the appropriate support services. VOTs felt that their distrust of authorities was a considerable hurdle in them engaging with the CJS. Victims highlighted the need to have support from a confidante who they can build a trusting relationship with over a significant period of time.

Based on these findings, extended support from support workers should be the focus for funding in the UK. By providing appropriate support for a longer period, VOTs will have adequate long-term assistance. This research endorses the recommendations for extended support for one year under the current Victim Support Bill and goes further to recommend that support workers are in place for longer, throughout the prosecution process and beyond. Indeed, both the US and the other European countries offer long term support workers for as long as VOTs require. Since the enactment of the MSA there has been increased funding announced for law enforcement dealing with trafficking, however this research shows that funding will be futile without appropriate investment in support services.

¹⁷ <https://www.antislavery.org/analysis-modern-slavery-act/>

¹⁸ National Audit Office Report - Reducing Modern Slavery – December 2017 (<https://www.nao.org.uk/wp-content/uploads/2017/12/Reducing-Mo>)

¹⁹ <https://services.parliament.uk/bills/2017-19/modernslaveryvictimsupport.html>

2. Immigration status

Lack of immigration status is identified by UK victims as a significant hurdle in them engaging with the police and prosecution, as they fear removal to their country of origin. Victims fear removal as often traffickers have power in their home country and VOTs may face reprisals or re-trafficking. Victims continue to feel the force of the hostile environment in the UK which often treats them as immigration offenders before protecting them as victims. Thus, there is strong reasons for VOTs to fear deportation and the authorities. We should be aiming to minimise uncertainty, provide leave for longer periods and make immigration decisions promptly, to give victims security to move forward with law enforcement.

Both US VOTs and their support providers identify access to the Trafficking Visa (T-Visa) as a significant factor in victim's ability to continue to engage in criminal proceedings. The T-visa allows for 4 years leave and can lead to settled status, whereas the UK authorities usually only grant one year of leave to recognised VOTs. This can be extended at the end of each year, but there is no guarantee of an extension being granted and no clear route to settlement. Although applicants may in some circumstances be able to apply for asylum, this is a much longer process and more uncertain than the T-Visa in the US. All support workers in the US stated that their clients were rarely refused a T-visa, compared to asylum which has a higher threshold and victims routinely needed to go through appeals processes. Given that VOTs identify their fear of being removed as the main reason they fear the authorities, offering longer term security to VOTs will inevitably be crucial factor to their ability to engage with the CJS. Indeed, the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT) to which the UK is a party sets out that residence permits should be offered for those co-operating with the authorities and it specifically states for the reason that victims are deterred from contacting authorities for fear of being immediately send back to their country of origin.²⁰ Consequently, it is strongly recommended that the UK extend the period of leave granted to VOTs.

The UK government fear that allowing a specific longer-term trafficking visa will be a pull factor to the UK, that many will fraudulently come to the UK in order to obtain such a visa. However there has never been any evidence of this. In fact, the figures suggest that there are thousands of victims who are not coming forward each year and so we have the opposite problem that victims are not forthcoming. In the US they have never fulfilled their quota for 10,000 available T-visas a year and indeed not even filled half of the quota of the potential amount claimed.²¹ The UK authorities already put VOTs through a vigorous credibility check before granting leave to remain as do the immigration tribunals. Indeed, many victims who enter the NRM receive negative conclusive grounds decisions and engage in legal challenges before these are reconsidered. Furthermore, as one US lawyer pointed out *"all support systems will always have an element of fraud but that doesn't mean we don't have them in place to protect people who are genuinely in need. We don't shut down the state benefits because of a small minority of dishonest applications"*. Having to deal with a very small number of fraudulent applications compared to the majority of VOTs who are unable to obtain the support needed to prosecute this crime, on balance clearly weighs in favour of more supportive system.

Those concerned about the potential cost of such a system on a government where budgets are already stretched, need to consider the money invested into increasing law enforcement. That funding will be redundant if not bolstered with funding for victim support. A recent report from the Anti-Trafficking Monitoring Group, found that there were two main factors which impacted the authorities' ability to mount a prosecution; inadequate support for victims and the lack of resources. The findings in that report, and here, supports the call for increased investment into adequate long-term support for VOTs.²² Thus, the UK must commit to such funding and commit to the prevention of this crime.

20 Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings

21 https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/1914T_visastatistics_fy201

22 ATMG - Before the Harm is Done Examining the UK's response to the prevention of trafficking September 2018

3. Legal Representation

Finally, VOTs in both the USA and the European countries visited are all offered legal representation throughout the prosecution process, giving them the same rights to representation and legal advice as the perpetrators of the crimes. VOTs in those countries identified this as being of significant assistance to VOTs when engaging with the CJS. The lawyer can work with the prosecuting authorities to ensure that the victim is treated as such and not criminalised or punished unfairly for any of the activities in which they were forced to partake or witness. It is important that prosecution rates are improved but this should be done by pursuing those responsible for the criminal exploitation, not by criminalising the victims. This level of protection will bolster VOTs' confidence to come forward and engage with the authorities; options for this should be explored in the UK.

The Modern Slavery Act has allowed for restitution through criminal proceedings but victims are not represented in the proceedings and not able to make any applications throughout. This report's findings show legal representation is key in enabling VOTs to give evidence without incriminating themselves and protecting them from criminalisation itself. The victim needs to be recognised as a victim and the UK is indeed falling short on this as well. Indeed, the law has been amended in the US to allow for this type of legal representation in the criminal courts and it is slowly becoming more widely practised. The Netherlands model allows for legal aid for legal representation for victims through the prosecution process and the Belgium model allows for legal advisers trained in this area to be assigned to each victim. It appears the UK is falling well behind in this respect.

The example of VOT D earlier in Section 6 illustrates how unsupported VOTs are becoming criminalised in the UK and the real criminal gangs go untouched. This case is not a one off and cases such as these are widespread, although the authorities do have data on the exact numbers.²³

Fiona Mactaggart, former co-chair of the all-party parliamentary group on human trafficking and modern-day slavery, said *"It is all very well for the prime minister to say that Britain has world-leading legislation on modern-day slavery. The problem is we're not effectively implementing it... The Home Office still sees trafficking as an issue of immigration ... these are people who are being sold, they are slaves, but we just look the other way. The state is completely failing in basic human responsibility to these victims"*.²⁴ The UK has adopted in criminal law some provisions ensuring that persons forced to commit a crime while being trafficked shall have a defence from prosecution for this crime, however these do not go far enough.²⁵ No prosecution should be started against a victim and without appropriate access to legal representations from the outset this practice is still happening. Having victim representation in the CJS will go some way towards raising trafficking issues in the consciousness of the criminal courts, prosecutors and also more importantly law enforcement agencies on the front line. The UK must ensure victims are treated as victims in order to achieve protection from and prevention of this crime.

4. Further observations

This research looked into victim support and the links with the trafficking prosecution process. From this it is clear that prosecution processes cannot be carried out in silo and much more work is needed across disciplines of support; immigration, legal, therapy, social, subsistence. There is a great need to take this research further through longitudinal studies with larger sample sizes in the UK, to analyse the details of the correlation between effective support and increased victim engagement in the CJS.

²³ ATMG - Before the Harm is Done Examining the UK's response to the prevention of trafficking September 2018

²⁴ <https://www.theguardian.com/global-development/2016/dec/20/uk-condemned-for-deporting-survivors-of-trafficking-back-to-vietnam>

²⁵ <http://www.prisonreformtrust.org.uk/Portals/0/Documents/Still%20No%20Way%20Out%20full%20report.pdf>

10.2 Recommendations

This comparative study has highlighted the strengths and weaknesses of the support systems across the UK and Europe. We analysed how support affects VOTs' ability to engage with the police and the prosecution of the perpetrators of this crime. In light of these findings we are able to make recommendations for the UK to develop its own support systems in order to empower VOTs to engage with law enforcement:

1. Extensions to the duration of support services for VOTs, support workers to assist in socio-economic issues, pastoral support and therapeutic activities.
2. Longer periods of secure immigration status for VOTs in order to ensure longer term stability in order to start recovering and engaging with the CJS
3. Provisions for specialist legal representation throughout the CJS for victims.

We explored psychological theories of trauma, how victims' self-esteem and trust is shattered by their trafficking experiences. It is clear that specialist support services will be needed to assist their recovery and ability to engage in prosecuting their trafficker/s. If we go back to Maslow's hierarchy of needs, we see that without support workers assisting with basic needs of shelter and security, VOTs will not be able to stabilise. Immigration status gives VOTs stability and a sense of belonging which helps build self-esteem. Legal representation aids their confidence to engage fully with the CJS.

We considered support systems of the USA, Belgium and the Netherlands and noted their stronger support models. This raises the question as to whether their prosecution rates are better than the UK. As specific trafficking offences only came into force fairly recently, thus existing data is quite sparse. However, the available data does suggest that the UK is falling behind these countries in terms of the numbers of prosecutions and convictions. For example, consider the UNODC data from 2016 below.²⁶

| | UK | USA | Belgium | Netherlands |
|--------------|----|-----|---------|-------------|
| Prosecutions | 98 | 335 | 353 | 311 |
| Convictions | 39 | 184 | 84 | 109 |
| | | | | |

The numbers of prosecutions and convictions for the UK are considerably lower than the other countries. It is especially surprising that countries with much smaller populations would have higher numbers of prosecutions and convictions. One may suggest that the reason for such higher numbers in the USA was due to the size of the population, but in actual fact the number of potential victims in the UK were higher than the USA that year (3805 victims referred into the NRM compared to 3388 victims detected in the USA). Indeed, these numbers are too small to analyse fully and additional research will need to be carried out to examine this further as more data is captured. Nevertheless, we can already see the positive effects of strong support systems in the UK from the data provided by Bakhita House and Hope for Justice, which show that they had 58% and 73% engagement with the authorities which is significantly higher than the UK average. Thus the existing data strongly supports the research findings here, suggesting a positive correlation between effective support and higher rates of engagement with the authorities, which inevitably lead to increased prosecutions and convictions of traffickers, a true deterrent and method of prevention for this crime.

Only with the three components of support identified above: longer term support workers, longer term immigration status and legal representation through the prosecution process, will VOTs have the appropriate support and security needed to fully engage in the CJS, therefore improving the UK's ability to successfully prosecute traffickers and aid prevention of this abhorrent crime.

²⁶ <https://www.unodc.org/unodc/data-and-analysis/glotip.html>

