



CROWN OFFICE
& PROCURATOR
FISCAL SERVICE

SCOTLAND'S PROSECUTION SERVICE

POLICY DIVISION

Human Trafficking and Exploitation

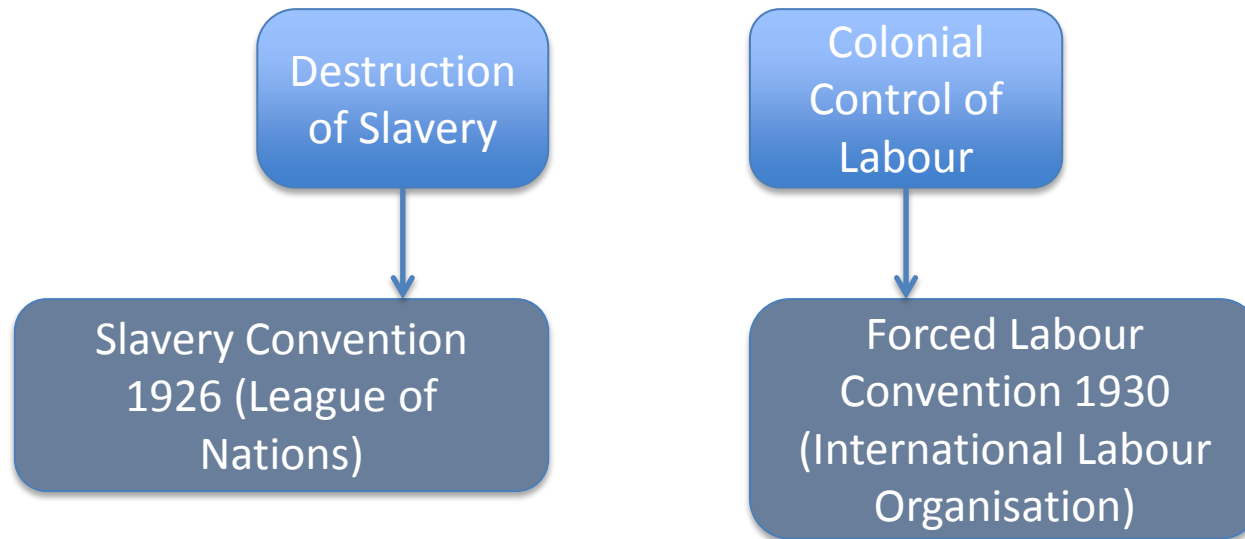
14th May 2015



The International Context

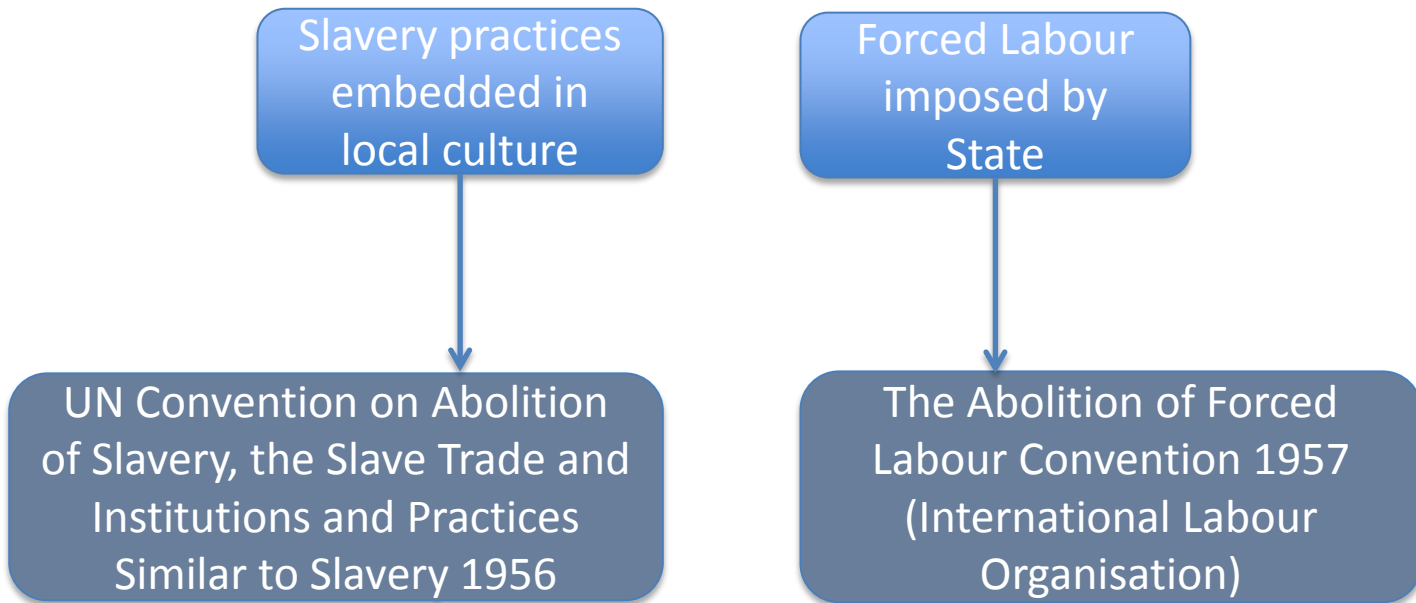
The International Context

The 1920s/1930s



The International Context

The 1950s



The International Context

The 2000s

International concern regarding increased migration and involvement of Organised Crime Groups

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The UN Protocol to prevent, suppress and punish trafficking in persons, especially women and children.

The International Context

- **Article 3 of the UN Protocol**
- **Definition of Trafficking in Persons**
- **The Act** – recruitment, transportation, transfer, harbouring or receipt of persons.
- **The Means** – threat, use of force, coercion, abduction, fraud, deception, abuse of power or position of vulnerability, giving or receiving of payment or benefit
- **The Purpose** – To exploit – including prostitution, other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

The European Perspective

- **European Convention on Human Rights Article 4**
- No one shall be held in slavery or servitude and no one shall be required to perform forced or compulsory labour.
- **Council of Europe Convention on Action Against Trafficking in Human Beings 2005**
- **European Union Directive on Preventing and Combatting Trafficking of Human Beings 2011**

The European Perspective

- **Protection of Victims**
- Necessary measures must be taken to ensure that national authorities are entitled not to prosecute or impose penalties on victims of human trafficking for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being the victim of human trafficking.
- Appropriate assistance and support to be provided to victims during criminal proceedings.
- Avoidance of secondary victimisation.



Scotland

Current Legislation

- **Section 22 of the Criminal Justice (Scotland) Act 2003**
- Trafficking of Human Beings for the purpose of control over a person for prostitution or in making or producing obscene or indecent material.
- **Section 4 of the Asylum and Immigration Act 2004**
- Trafficking of Human Beings for the purpose of exploitation
- **Criminal Justice and Licensing (Scotland) Act 2010**
- Section 46 – Extraterritorial effect of Human Trafficking offences
- Section 47 – Offence of slavery, servitude and forced or compulsory Labour

The Scale of Trafficking in Scotland

2014 National Referral Mechanism Statistics

- 111 referrals (12% increase)
- 56% Females 44% Males
- 23% minors
- Type of exploitation
 - Adult Labour Exploitation (33 referrals)
 - Adult Sexual Exploitation (32 referrals)
- Country of origin
 - Vietnam (20 referrals), Nigeria (14 referrals), China (13 referrals), Poland (11 referrals).

Prosecution Process

- National Referral Mechanism
- Victim Information and Advice Team
- Vulnerable Witness Applications (Section 271 of the Criminal Procedure (Scotland) Act 1995 as amended by the Victims and Witnesses Act 2014)
- International Cooperation Unit
- Application to Prohibit the Accused from conducting his own defence (Section 288F of the Criminal Procedure (Scotland) Act 1995)



Human Trafficking and Exploitation Bill

Human Trafficking and Exploitation Bill

- Members Bill - Jenny Marra MSP – February 2014
- Scottish Government Bill announced - March 2014
- Bill Published 11th December 2014
- Stage 1 - Evidence March 2015 – Debate 12th May 2015
- Overarching policy objectives of the Bill are; to consolidate and strengthen the existing criminal law against human trafficking and the offence relating to slavery, servitude and forced or compulsory labour and enhance the status of support for victims.

Part 1 - Offences

- **Section 1** is a single offence clarifying and simplifying the law of Human Trafficking. The **Section 1** offence covers;
 - recruitment
 - transporting or transferring
 - transferring or exchanging control and
 - harbouring or receiving a person,
- with a view to them being exploited.
- The section makes it clear that it is irrelevant whether the person consents to any part of the process.
- Exploitation is defined in **Section 3** of the Act and includes;
 - Slavery, servitude and forced or compulsory labour
 - Prostitution and sexual exploitation
 - Removal of organs etc
 - Securing services and benefits

- **Section 2** outlines the geographical reach of the offending. The offence can be committed by;
 - a UK National
 - someone who is habitually resident in Scotland
 - a body incorporated under the law of a part of the UK
- Or, where the accused is not covered by the list above, is committed if;
- any part of the arranging or facilitating takes place in the UK
- the travel consists of arrival into, departure from, or travel within the UK

- The new **Section 4** offence covers the situation where a person is held in slavery or servitude or is required to perform forced or compulsory labour.
- This revised approach explicitly allows the court to consider, in assessing whether a person has been a victim of an offence, the victim's characteristics such as age, physical or mental illness, disability or, where relevant, family relationships.

Part 2 – Protection of Victims

- **Section 7 – Lord Advocates Guidelines on Prosecution of Victims of Offences.**
- The Lord Advocate must make and publish guidelines which must in particular include factors to be taken in to account or steps to be taken by the prosecutor when deciding whether to prosecute a person in circumstances where a person is compelled to commit an offence and the compulsion is directly attributable to the that person being a victim of a Human Trafficking and Exploitation offence.
- Duty on Scottish Ministers to ensure that support is provided.

Parts 3,4 and 5

- Detention and forfeiture of vehicles, ships and aircraft.
- Trafficking and Exploitation Prevention and Risk Orders
- Trafficking and Exploitation Strategy



Human Trafficking and Exploitation