UNODC WORKING GROUP ON TRAFFICKING IN PERSONS
NON-PUNISHMENT PRINCIPLE

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Ways in which it is implemented in the UK:

- Duress
- Statutory Defence (but this excludes all sexual offences or offences of violence)
- Prosecutorial discretion supported by published policy to prosecutors which applies to all offences.
Safeguards for more serious crimes

- NPP applies to all criminal activities and therefore no offences are excluded (*Article 8 EU Directive; OSCE detailed guidance and GRETA*).

- Consider the level of compulsion exercised on the victim in light of the seriousness of the offence. Victims should demonstrate that their criminality or culpability has been effectively extinguished or diminished as the compulsion is so great.

- Examine the cogency of the evidence on which decision made on victim status.

- Prosecutors must keep cases under review. New information must be considered in light of the evidence. If police investigation has failed to consider this, further enquiries must be made.
What if victims have themselves become traffickers?

- Often victims become perpetrators as a means of escaping their own situation.
- Prosecutors and courts must consider the extent to which they were forced by their traffickers to exploit others.
- Are they an alpha victim or perpetrator?
- There may come a point where they cease to be a victim compelled to commit serious crimes and they themselves become responsible for the offences they are committing.
- Consideration of the harm they are inflicting on other victims
What options are available?

- Duress (threat to life or life of family members or serious harm)
- Prosecutorial discretion where level of compulsion / force is high (R v LM and Ors)
- For “assisting or participating informants” where offenders are willing to assist in the investigation or prosecution of others, offer of immunity or undertakings
Recommendations proposed

- Importance of **clear, effective but flexible NPP provisions** which can respond to victims in different circumstances.
- Key is identification of suspects who might be victims. *This requires effective and holistic investigation by police / immigration officials from the outset*
- Importance of updating and publishing legal guidance and training to all law enforcement and criminal justice agencies. UK experience involves a wide range of criminality, so urge states to consider broadening the offences to which NPP applies to reflect evolving criminality.
Thank you and
Any Questions?

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