WITNESS LIST

Joint Committee public hearings in relation to the Review of Legislation on Prostitution

12th December 2012

Irish Medical Organisation:

Dr. Matthew Sadlier                Vice-President
Ms. Vanessa Hetherington       Senior Policy Executive

National Women’s Council of Ireland:

Ms. Orla O’Connor                   Director
Ms. Jacqueline Healy                Women’s Health & Human Rights Worker

Dr. Gillian Wylie and Dr. Eilís Ward:

Dr. Gillian Wylie                        TCD
Dr. Eilís Ward                           NUI Galway

Barnardos:

Ms. June Tinsley                      Advocacy Manager

Immigrant Council of Ireland:

Ms. Denise Charlton       Chief Executive
Ms. Nusha Yonkova                 Anti-trafficking Manager
Mr. Jerry O’Connor           Advocacy & Communications Manager

Ruhama:

Ms. Sarah Benson               Chief Executive
Ms. Geraldine Rowley  Communications and Policy Manager

**APT (Act to Prevent Trafficking):**

Sr. Mary Ryan  APT (Act to Prevent Trafficking)
Sr. Síle McGowan  APT (Act to Prevent Trafficking)

**One in Four:**

Ms. Maeve Lewis  Executive Director
Ms. Julie Browne  Advocacy Officer

**NASC (Irish Immigrant Support Centre):**

Ms. Fiona Finn  Chief Executive
Ms. Jennifer DeWan  Campaign & Communications Officer

**Irish Nurses and Midwives Organisation:**

Ms. Claire Mahon  President
Mr. Liam Doran  General Secretary
Ms. Clare Treacy  Director of Social Policy

16th January 2013

**Women’s Aid:**

Ms. Margaret Martin  Director
Ms. Monica Mazzone  Communications & Policy Manager

**Sex Workers Alliance Ireland:**

Dr. Teresa Whitaker  Secretary

**Member of the Public:**

Ms. Monica O’Connor
Dr. Jane Pillinger

**NUI Maynooth:**

Dr. Kathryn McGarry  NUI Maynooth
Irish Feminist Network (IFN):
Ms. Emma Regan Coordinator

23rd January 2013

Member of the Public:
Dr. Derek Freedman

Doras Luimní:
Ms. Patricia Stapleton Anti-Trafficking Officer
Ms. Okeremute Okeregha Legal Officer

Member of the Public:
Ms. Linda Latham

Gay Men’s Health Service (GMHS):
Mr. Michael Quinlan Manager
Mr. Daniel McCartney Researcher, Gay Health Network

6th February 2013

Members of the Public:
Mr. Paul Maguire Editor, Investigation Unit RTE
Ms. Carolyn Fischer Press Officer, RTE

An Garda Siochána:
Mr. Fergus Healy Superintendent
Mr. John McCann Detective Superintendent
Mr. Gerry McGrath Detective Inspector
Submission to the Department of Justice and Equality on
The Future Direction of-Prostitution Legislation

August 2012
IMO Submission to the Department of Justice and Equality on The Future Direction of Prostitution Legislation

The Irish Medical Organisation is the representative body for all doctors in Ireland and represents over 5,000 medical practitioners. The IMO welcomes consultation from the Department of Justice and Equality on the future direction of prostitution legislation and supports the Turn Off The Red Light Campaign which calls on the government to introduce legislation which makes it illegal to purchase sex.¹

Demand for unprotected sex puts pressure on sex-workers and exposes them to higher risk of HIV and sexually transmitted infection. In addition international research shows that sex-workers and those trafficked for sex are exposed to a wide range of other physical and mental health problems. In particular women involved in prostitution are exposed to high levels of violence including sexual and physical assault, rape and murder. Studies show that the majority of women and adolescents who have been trafficked or involved in prostitution have been physically assaulted or raped and show symptoms of post-traumatic stress disorder.² Other mental health issues are common among sex-workers including depression and anxiety disorders which can continue long after a woman has exited prostitution and which in a significant proportion of cases can remain with a woman for life.³

Drug and alcohol addiction is also prevalent among sex-workers.⁴ Sex-workers often enter into prostitution to support drug addiction, but also can become reliant on drug use as a support mechanism to cope with the trauma of prostitution. Sex-workers who use drugs are more likely risk unprotected sex and are more likely to neglect their health, seeking care only at more advanced stages of illness.

Mortality rates are higher among females in prostitution than the general population. In London mortality rates are estimated to be 12 times higher among women in prostitution than the national average,⁵ while a Canadian study estimates that mortality rates are up to 40 times higher.⁶

Data compiled from the HSE’s Women’s Health Project in 2007⁷ showed that the majority of women recorded symptoms related to sexually transmitted infections, reproductive tract infections or other health complications related to prostitution including bacterial vaginosis, thrush, Hepatitis A and B, Chlamydia, vaginal/genital warts, urinary tract infections and cervical cell abnormality. Project workers received regular reports from women of violence inflicted on them and expressed concern about the long-term impact of prostitution on the women’s health.

A study by the National Advisory Committee on Drugs⁸ on drug-using sex workers in Dublin found that the women and men interviewed were dependent heroin users before engaging in sex work and a significant minority were minors at the time. Most had grown up in marginalised communities and had experienced prolonged periods of homelessness. Most entered sex-work for financial reasons or to maintain their drug dependency while increased income from sex-work invariably contributed to an escalation in drug use. Drug use enabled sex workers to work longer hours and minimise distress levels as a consequence of the work but increased the risk of engaging in unprotected sex or their ability to assess the dangers of a situation. 78% of interviewees reported having Hepatitis C and 21% reported that they were HIV positive. The vast majority had been physically or sexually assaulted by a client.

Most women do not choose prostitution; but are forced into prostitution because of poverty, homelessness or drug addiction. Purchasers of sex exploit their desperation.
A wide range of measures are necessary to combat prostitution and sex trafficking including the provision of health and social supports for prostitutes to enable them to exit prostitution as well as social supports for young people at risk of prostitution. There is also a need to change attitudes towards prostitution and the growth of the sex industry through legislation criminalising the purchase, not the sale of sex, and a public awareness campaign to educate the public of the physical and mental harm caused by prostitution.

Experience from Sweden shows that criminalising the purchase of sex and not the sale of sex has reduced demand and contained the extent of prostitution. A recent evaluation by the Swedish Government found that since the introduction of legislation in 1999 to criminalise the purchase of sex, street prostitution in Sweden has halved. In 2008, the number of people in street prostitution was estimated to be three times higher in Norway and Denmark than in Sweden. On the introduction of a ban on the purchase of sex in Norway in 2009, a study by the Bergen Municipality also reported an immediate dramatic drop in street prostitution. While internet prostitution has increased, as elsewhere, the report found no overall increase in indoor prostitution as a result of the legislation. Police officers and social workers report that purchasers of sex have become more cautious and surveys show that the legislation has had a deterrent effect on men.

Conclusion
International research shows that sex-workers and women and adolescents trafficked for sex are exposed to a wide range of physical and mental health problems in addition to HIV/AIDS and sexually transmitted disease. Mortality rates are higher among females in prostitution than the general population. Most women do not choose prostitution; but are forced into prostitution because of poverty, homelessness or drug addiction. Purchasers of sex exploit their desperation. A wide range of measures are necessary to combat prostitution and sex trafficking and experience from Sweden shows that criminalising the purchase of sex and not the sale of sex has reduced demand and contained the extent of prostitution. The IMO supports the Turn Off The Red Light Campaign and calls on the Government to introduce legislation which makes it illegal to purchase sex.

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1 See IMO General Motion 11/26
3 Farley M. Et al 2003
5 Mayor of London The Way Forward - Taking action to end violence against women and girls, Final Strategy 2010-1013, March 2010
6 Canada Dept of Justice, Pornography and Prostitution in Canada: Report of the Special Committee on Pornography and Prostitution, Summary 1985
7 Kelleher Associates, O’Connor M Pillinger J, for Immigrant Council of Ireland in collaboration with the Women’s Health Project and Ruhama, Globalisation, Sex-trafficking and Prostitution: The Experiences of Migrant Women in Ireland Immigrant Council of Ireland 2009
8 Cox G. Whitaker T. National Advisory Committee on Drugs, Drug Use, Sex Work and the Risk Environment in Dublin, 2009
Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the Review of Legislation on Prostitution

Overview
The prostitution of women and girls constitutes a fundamental violation of women’s human rights and a serious form of male violence against women. It is the view of the NWCI that prostitution is incompatible with equality for women. The NWCI believes that the introduction of legislation to criminalise the purchase of sex whilst at the same time decriminalising those who sell sexual acts and offering support services to people in prostitution is the only viable way to work towards an end to this exploitative industry.

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31 August 2012

The National Women’s Council of Ireland would be delighted to appear before the Joint Oireachtas Committee in a public session to discuss the points and recommendations that we raise in our submission.
Submission of the National Women’s Council of Ireland to the Joint Oireachtas Committee on Justice, Equality and Defence on Review of Legislation on Prostitution

31 August 2012

Introduction

The National Women’s Council of Ireland (NWCI) is a feminist non-governmental organisation representing women's groups in Ireland. The NWCI currently has 170 member organisations affiliated to it, representing an estimated 500,000 women. As the representative organisation of women in Ireland, our mission is to achieve women’s equality, empowering women to work together in order to remove structural political, economic, cultural and affective inequalities. The vision of the NWCI is of an Ireland where all women and men have equal power to shape society and their own lives.

The NWCI welcomes the opportunity to contribute to the review of the legislation governing prostitution in Ireland. The NWCI has identified violence against women as one of the key priority areas in its work in promoting equality between women and men. Prostitution is one of the many forms of violence against women where women’s rights are pervasively violated. It is the view of the NWCI that prostitution is incompatible with equality for women and firmly believes that Ireland needs a legislative solution that aims to eliminate the industry and create exit routes for women and girls trapped in prostitution.

In our Annual General Meeting in June 2012 our members voted overwhelmingly in support of a motion “that the NWCI recognize the issue of prostitution of vulnerable women and girls in Ireland is a serious issue which requires a legislative response to reduce exploitation in the commercial sex trade.” The NWCI has been a member of the core co-ordinating group of the Turn Off the Red Light Campaign which has been campaigning for Ireland to adopt the Swedish legislative model as the best and most effective way to address prostitution as a form of violence against women and deter the trafficking of women and girls for sexual exploitation. In addition the NWCI is the Irish national co-ordination for the European Women’s Lobby (EWL) who have been working on the issues of prostitution and trafficking for many years and is currently running a campaign ‘Together for a Europe Free from Prostitution”, a campaign we fully support and endorse.
The NWCI welcome the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’ and would like to highlight the following points in its contribution to the discussion of how to effectively address prostitution in Ireland.

Prostitution in Ireland
Women and children are exploited in Ireland’s sex industry that has an estimated annual value of 180 million and is present and thriving in every county in Ireland. On average 1000 women are available for sale on any given day and the vast majority of them are migrant women and girls who are particularly vulnerable. Trafficking for the purposes of sexual exploitation is a well-documented issue in Ireland and significant efforts have been put in place to tackle these problems. The Irish state is required by international law to prevent trafficking by discouraging the demand for services provided by victims of trafficking (See Article 6 of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings which Ireland has signed and ratified).

The vulnerability of women prostituted in Ireland was highlighted by RTE investigation ‘Profiting from Prostitution’ which was aired earlier this year. The extent of criminal control of women was clear as was the high demand for the purchase of such vulnerable women by sex buyers. This documentary also revealed that the sex trade is controlled by domestic and international crime gangs.

The sex trade is thriving and it is not just confined to major towns and cities. The increased use of the internet and mobile phones allows for anonymity and invisibility. The sex trade occurs mostly indoors with fewer women in street prostitution. There is increased use of apartments, brothels, massage parlours and lap dancing clubs. The profile of women involved has changed with over 90% of women being migrant women which can lead to greater difficulty in accessing assistance in exiting their situation. Many of them are imprisoned in apartments and moved around the country. Additional vulnerabilities exist for migrant women including the lack of language skills, if they are undocumented or in the asylum system with no entitlement to social welfare or state training or if they are dependent on an abusive spouse / pimp for residency status. The strong link between prostitution and trafficking for sexual exploitation has been well documented.1

Various activities associated with prostitution are outlawed in Ireland, such as curb crawling, soliciting, loitering in public places, brothel keeping and living off immoral earnings. However, the purchase and the selling of sex are not illegal. (Criminal Law Sexual Offences Act 1993). It is the sex buyer who fuels the profits of the criminals who organize the sex trade in Ireland and perpetuates the exploitation of vulnerable women and girls.

Women and Prostitution – the experience of women and girls
Prostitution has a devastating impact on both physical and mental wellbeing for those prostituted. It erodes self-esteem, self-confidence, can cause depression and symptoms of post-traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other physical consequences. (Kelleher et al 2009, Lawless 2005). Women involved in prostitution continue to be criminalised, marginalised and isolated.

There are different degrees, levels and extent of coercion, abuse and violence perpetrated against any one woman or child at any particular time but all women who are in the sex industry are violated and sexually exploited. The sex industry is an inherently unsafe and dangerous environment. Those in prostitution face beatings, rape, sexual assault and degrading treatment. They are usually individuals who are isolated from potential supports. Concern for the health and safety of sex workers and the desire to make sex work a voluntary regulated occupation led many policy makers to argue against the criminalisation of the sex industry. In fact the evidence from other jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that those aspirations were ill founded. In Germany an extensive evaluation in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance, the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses.  

Ruhama, the national organisation working with women affected by prostitution documents the impact of prostitution on women’s health and wellbeing. A high percentage of their clients experience physical assault, emotional and verbal abuse, rape, unwanted pregnancy, addiction, attempted suicide, depression, infertiltiy, contraction of sexually transmitted diseases while 68% experienced post traumatic stress disorder. Women’s physical and mental health is seriously at risk from prostitution and there is also a high risk of additional violence. 92% of their clients reported that they wanted to leave prostitution.

Ruhama Annual Report 2011 released in August 2012 reported an increase of 18% in women accessing their services. The globalised nature of the Irish sex trade, which has been a growing phenomenon over the last decade, was reflected in their statistics where the 200 women assisted in Ruhama’s casework came from 36 different countries. The organisation assisted 91 suspected victims of sex trafficking in 2011. The annual report documents the experiences of women involved in prostitution who report physical and sexual assault, degrading and humiliating verbal abuse, hyper vigilance and constant tension and feelings of isolation – from other people and from the rest of society with panic attacks, depression, and suicidal feelings.

Children and Prostitution
It is a shocking statistic that 75% of women in prostitution became involved when they were children (Women’s Resource Centre, 2008). Experience shows that the tender age or obvious vulnerability of a person alone cannot act as deterrents for the buyers of sex and a more comprehensive approach is needed in tackling the demand for paid sex. The estimated average age of entry into prostitution is 14 years. A report published by the Immigrant Council of Ireland exploring the sex trafficking of migrant women revealed that 11 of the 102 studied cases involved girls younger than 18 years. More recently, the Irish Government annual reports on human trafficking stated that in 2010 out of the 56 victims of sex trafficking 15 were minors, and 8 out of 37 in 2011 respectively. International research from

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3 Presentation by Sarah Benson, CEO of Ruhama at NWCI Members Meeting 18.10.11 available at www.nwci.ie
4 See Ruhama Annual Report 2011 available at www.ruhama.ie
5 “The harsh realities of ‘being raped for a living’”, Irish Examiner Wednesday, February 15, 2012
6 US Department of Justice “Child Exploitation and Obscenity” accessed CEOS
7 “Globalisation Sex Trafficking and Prostitution and Experiences of Migrant Women in Ireland”, Kelleher et al, 2009
8 Annual statistical reports on trafficking in human being by the Anti Human Trafficking Unit at the Dept of Justice and Equality http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/whatisbeingdone-datastrategy-en
2003 and 2009\(^9\) expose the fact that men are aware of the coerced and trafficked status of women, which does not discourage them from buying these same individuals for sex.

Ruhama has always been aware of the serious issue of underage prostitution; in particular, children who are without family supports and/or have a pre-existing experience of abuse are highly vulnerable to grooming and coercion into prostitution. This is well documented in their most recent annual report of 2011.

**The Contested Notion of Consent**

The NWCI hold the firm belief that prostitution is not an equal consensual contract which both people have equal power. Most women enter prostitution because they do not have a choice. Reasons for entering prostitution has been well documented by Ruhama who support women every day and include poverty, debt, a history of abuse and/or severe neglect as a child or youth, institutionalisation as a child, partner abuse, homelessness, lack of family supports, addiction and grooming / coercion by a family or partner. Most people in Irish society know that prostitution is harmful and no parent will be encouraging their children to consider prostitution as a career option.

The situation whereby adults in the absence of any degree of control or duress or lack of alternatives, discreetly agree to exchange sex for money seldom occurs. Reports from around the world repeatedly show that buyers are aware of the controlled/coerced status of the women they buy. In the UK 55\% of over 100 buyers interviewed said the majority of women are coerced/trafficked, in the US the number of buyers sharing this view rises to 60\% and to 63\% in Scotland.\(^10\)

There is no clear line between where the elements of trafficking end and “consent” to become involved in the sex industry begins. Many of the women who are involved in Ireland’s sex industry, which do not meet the definition of a victim of trafficking, had no real choice – poverty and life circumstances, combined with deception and gross exploitation, are evident in many of their stories.\(^11\) Being in prostitution is about the sexual satisfaction of the sex buyer – not the prostituted person. It is not an equal transaction. One person with means buys access to the body of another person who most commonly is in a desperate situation.

**Prostitution and Patriarchy**

Prostitution is a violation of women’s human rights, including human dignity. The system of prostitution perpetuates patriarchal views on women’s sexuality and legitimates male domination in society. As long as it is tolerated, it is an obstacle to equality between women and men.

The dearth of any effective legislation in Ireland to curb the sex industry sends out a message to men and boys that women are sexual commodities to be bought. The current situation legitimises the traditional sexuality of dominance and submission. Prostitution is incompatible with a society committed to equality to have some women for sale for the purpose of sexual exploitation.

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\(^9\) “Men Who Buy Sex: Who They Buy and What They Know”, Farley, Bindel, Golding 2009


\(^11\) Globalisation Sex Trafficking and prostitution and Experiences of Migrant Women in Ireland, Kelleher et al 2009
general. Male abusers can then act with impunity because they know that women in prostitution will not be believed or taken seriously by the criminal justice system. “12

Prostitution is part of the historical continuum of male violence against women; incest, rape, and marital rape are outlawed thanks to the work of women’s organisations over the past decades. The abolition of the system of prostitution must be the next step to stop men’s control and use of women’s and girls’ bodies and sexuality. Between 80 and 95% of persons in prostitution have suffered some form of violence before entering the system of prostitution (rape, incest, pedophilia).13 62% of women in prostitution report having been raped.14 68% of women in prostitution meet the criteria for Post-Traumatic Stress Disorder like victims of torture.15 9 out of 10 women in prostitution would like to exit the system of prostitution but feel unable to do so.16

The abolition of the system of prostitution is a progressive and realistic objective, based on the fundamental principles of equality between women and men and human dignity. Refusing prostitution is about setting up norms of human dignity for all women and girls all over the world. It is about calling for a free and respectful sexuality which is based on equality and free from violence and domination.

Ireland’s international human rights commitments and prostitution
The NWCI would like to highlight international and European human rights instruments which address the issue of prostitution. These qualify prostitution as a form of violence against women, an obstacle to equality between women and men, an obstacle to human dignity or a violation of human rights. Ireland has ratified almost all of these instruments which include the 1989 UN Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the 2005 Council of Europe Convention on Action against Trafficking in Human Beings.17 The NWCI would urge the Irish government to join the 18 other EU member states which have ratified the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the prostitution of Others and send out a clear message that a fair and equal society is a society free from prostitution.

The Swedish Model
In Sweden, where they have criminalised the buying of sexual acts, there has been a significant reduction in trafficking and prostitution with a halt in the recruitment of new women.18 Legislation can be used to change attitudes and when you change attitudes you change behaviours. In Sweden there has been legislation to criminalise the sex buyer while decriminalizing those prostituted (as vulnerable parties) since 1999. A whole generation of

12 O’Connor, M: Where are we now? New Feminist Perspectives on Women in Contemporary Ireland p. 157
16 Home Office, Paying the price, 2004, UK.
17 See European Women Lobby Briefing paper No. 1 as part of their submission to the Joint Oireachtas Committee on Justice, Equality and Defence to the Review of legislation on prostitution 23 August 2012 which gives an overview of prostitution in international and European human rights instruments. www.womenlobby.org
young people has grown up in the last decade in a society where it is considered unacceptable for the bodies of women and girls to be bought by others for their sexual satisfaction. 70% of Swedes support this law on the basis that prostitution is exploitative and incompatible with equality.\(^{19}\)

The outcomes of the High Level Inquiry, headed up by a Supreme Court Judge concluded that street prostitution in Sweden has halved since the introduction of the ban. In comparable countries, Norway and Denmark, the number of people in street prostitution has increased dramatically in the same period, three times higher than in Sweden. There is no evidence that prostitution has gone underground. Indoor prostitution including massage parlours, sex clubs, and hotels has not increased. There is no indication that criminalisation has increased the risk of violence or worsened the conditions of those people exploited through prostitution. Furthermore, the ban has proved to be an effective deterrent to sex purchasers as polls show decrease from 13.6% in 1996 to 7.9% in 2008.

Trafficking is considered to be of a substantially smaller scale in Sweden than in comparable countries. The National Criminal Police believe the law has acted as a barrier to human traffickers and procurers. In relation to enforcement in Sweden, a spectrum of offences i.e. aggravated procuring; procuring; attempted/aided procuring enables more prosecutions of traffickers/pimps as trafficking offences notoriously difficult to prosecute.

In the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any more safety for women but rather a massive legal and illegal trade in migrant girls and women; that combating the exploitation of involuntary prostitution is ‘virtually impossible’ to ascertain; that pimping is widespread and that the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased.\(^{20}\) A review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation, integrate it into employment law or create the conditions in which women’s health and safety can be protected.\(^{21}\)

The EWL have done an extensive analysis of the two main legislative approaches to prostitution, based on governmental and police reports from Sweden and the Netherlands. These reports show that the Swedish model has been instrumental in deterring trafficking and procuring, reducing prostitution on the streets and changing mentalities while the Dutch model seems to fail to address trafficking and protecting women from violence and exploitation. The NWCI would ask that the Committee read these reports and aim to meet with the National Rapporteurs to get the latest information about the implementation of the legislation.\(^{22}\)

Criminal record, including the risk of disclosure has been identified by the buyers themselves as a reliable deterrent of their actions\(^{23}\). Penalties are the most efficient proven approach to deter men who contemplate buying sex. The simple legal step of criminalizing the purchase of sex would immediately cut demand for the hugely lucrative criminal trade of organised

\(^{19}\) Claude, Kajsa & the Swedish Institute: Targeting the Sex Buyer: The Swedish Example; Stopping prostitution and Trafficking where it all begins.(2010)

\(^{20}\) Dalder: Prostitution in the Netherlands since the lifting of the Brothel Ban (2007)


\(^{22}\) See European Women’s Lobby Briefing Note 2 as part of their submission to the Joint Oireachtas Committee on Justice, Equality and Defence, on the Review of Legislation on Prostitution. 23 August 2012

\(^{23}\) Farley 2011, McLeod 2008
prostitution and trafficking. The NWCI believe that the reduction of demand for paid sex leads to decreased supply of prostituted people, among them those who have been forced, controlled, trafficked, those who are minors or have other vulnerabilities. Criminalising the purchase of sexual acts makes punters take responsibility for their actions and sends out a clear message that it is not acceptable for women to be treated as commodities to be bought and sold for sexual use.

A diminished demand for purchase of sex, leading to a diminished trade would support An Garda Síochána in prioritizing their limited resources to effectively target persistent criminality. In countries where prostitution has been legalized the police have found themselves faced with an insurmountable challenge as the sex trade increased massively, including trafficking and related criminality.

**Recommendations**

The NWCI believes that the introduction of legislation to criminalise the purchase of sex whilst at the same time decriminalising those who sell sexual acts and offering support services to people in prostitution is the only viable way to work towards an end to this exploitative industry. Government and police reports show that the Swedish model has been instrumental in deterring trafficking and procuring, reducing prostitution in the streets and changing mentalities. Research shows that Sweden is no longer an attractive market for traffickers and pimps and that the law clearly works as a deterrent.  

The NWCI urges the Irish government to amend the 1993 Sexual Offences Act to criminalise the purchase of sex, and ensure those who sell sex are not criminalised and re-victimised. We believe that following the Swedish model and introducing legislation to criminalise demand will act as a deterrent for people who buy sex. This would send out a strong message to the Irish public that protection of women from all forms of violence is a strong commitment of the government and as a key stepping stone to the achievement of women’s equality. The NWCI would also recommend that the change in legislation would be complimented by enhanced and sustained support services for people in prostitution who wish to exit.

The NWCI would particularly welcome the potential that the introduction of legislation would bring, to establish a new norm in our society which deems prostitution to be an unnecessary and unacceptable social phenomenon which sends out a strong message to future generations that it is not acceptable for women to be treated as commodities, to be bought and sold for sexual use.

**Conclusion**

The prostitution of women and girls constitutes a fundamental violation of women’s human rights and a serious form of male violence against women. The tolerance of the EU and its member states for the system of prostitution allow for men’s use of and control over women’s body and sexuality, and fuels trafficking in women for sexual exploitation. The persistence of systems of prostitution in EU member states demonstrates the failure at European level to reach gender equality and promote women’s rights.

The debate and challenge to the sex industry is minimal so this consultation process is a unique opportunity for groups to voice their opinion and to highlight the fact that prostitution is not a part of women’s sexual liberalisation but is a form of violence against women and

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sexual exploitation and a result of the structural and institutional nature of gender inequality and the subjugation of women which lie at the heart of gender based violence.

Ireland needs legislation to criminalise men who use prostitutes rather than criminalising women engaged in prostitution. The Irish government must seek to halt the demand for prostitutes and put in place supports to assist prostitutes to exit their situation. Even more important is the potential of this policy to establish a new norm in our society, which deems prostitution to be an unacceptable social phenomenon.

Prostitution cannot be seen as an occupation which women freely choose. Prostitution is in itself a high risk and exploitative situation for women. Prostitution has a devastating impact on the physical and mental wellbeing of women and girls. A society that tolerates prostitution cannot achieve gender equality.

FURTHER INFORMATION
For further information in relation to this submission, please contact Jacqueline Healy, NWCI at jacquelineh@nwci.ie or Tel. 01-8786401. www.nwci.ie
A brief introduction explaining our area of expertise

The authors of this submission are Dr. Eilís Ward (Lecturer in Politics and Sociology at NUI Galway) and Dr. Gillian Wylie (Assistant Professor in International Peace Studies at Trinity College Dublin).

Over past 6 years we have collaborated on research into trafficking for sexual exploitation into Ireland and lap-dancing in the context of the contemporary Irish sex industry. Separately we have published articles on prostitution policy (Dr. Ward) and human trafficking for labour exploitation (Dr. Wylie). Amongst our relevant publications are:


Factual information to offer the Committee

The Oireachtas Committee is being asked to consider the future direction of prostitution policy in Ireland and in order to do so the Committee is requesting ‘factual information’. A first point we think it is vital to make is that this is an area where research and knowledge are badly lacking. We know very little about the lives of Irish women (or men) in the sex trade. We know very little about the profile of women who are trafficked into Ireland and about their traffickers. We also know very little about the relationship between ‘supply and demand’ in the history of the sex trade in Ireland. It could be suggested that in Ireland, we have remained willfully ignorant of the sex trade – little academic scholarship has been directed towards it – and that this ignorance acts as a complication in the state’s current attempt to address prostitution and sex-trafficking. While this ‘factual information’ deficit persists, we would suggest that it seems foolish to proceed with legislative change. We wonder if any other realm of activity or endeavor in Ireland would undergo legal change in the absence of necessary base-line data and analysis.

We hope that the Committee will pay heed to the caveat above before even considering options for the future of prostitution policy in Ireland. However,
turning to those options, as the Committee will be aware, internationally the poles of discussion on this issue lie between an abolitionist/criminalization of demand perspective (as exemplified in Europe by Sweden) and a legalization/sex workers’ rights perspective (as exemplified by the Netherlands). In contemporary debates these models are seen not only as a means of legislating for domestic sex industries but also for dealing with the fact that these sex industries are increasingly globalized and involve many migrants, including women trafficked for sexual exploitation. Again both legislative models are proposed by their advocates as means of eradicating sex-trafficking — either by criminalizing the clients or regulating the industry.

We would like to suggest to the Committee on the basis of our research in Ireland, our reading of international literature and analyses that take seriously the multiple voices of women in sex industries that policies designed to legislate for either policy extreme are problematic. However here we focus our critique mainly on the abolitionist position, as this is the lobby which to date has dominated civil society discourse in Ireland. We suggest that the abolitionist position is problematic for a number of reasons including:

1. A ‘one-size-fits-all’ policy, such as abolitionism, does not take into account the diversity of women’s voices or experiences in sex industries.

2. A policy aimed at curtailing trafficking by attempting to abolish demand in the sex industry does not address the complexity of the causes of human trafficking.

3. The ‘jury remains out’ on the efficacy of the abolitionist model in relation to its effects on both prostitution and trafficking.

The ‘One Size Fits All’ Problem

We have been amongst the small number of academics working on the issues of prostitution and human trafficking in Ireland. We undertook the first base-line study of trafficking for sexual exploitation into Ireland (2007) and subsequently published on lap-dancing and exploitation. A key finding of our research into both trafficking and lap-dancing in Ireland was that women’s experiences and degrees of choice are diverse. In effect, women in the sex industry fall along what could be seen as a continuum of experiences from those who are utterly exploited to those who make choices for sex work. Some women understand themselves to be migrant sex workers, others could be understood as trafficked in the sense of the UN Palermo Protocol definition (deceived, coerced, moved and exploited). This acknowledgement of a varied spectrum of experience within prostitution concords with analyses from, for example, Julia O’Connell Davidson, who has written a number of empirically based studies on women in prostitution in the UK and globally. O’Connell Davidson’s interviews give voice to a range of women’s experiences in sex work (1998). These are voices rarely heard in Ireland or elsewhere, although there is now a large and growing literature that
refuses the ‘victim’ label for all migrant sex workers in Europe (Agustín 2007). The views of some of these workers were heard by one of us (Dr. Ward) at an EU funded European-wide conference on the rights of migrant sex workers in Europe in 2004. At this conference undocumented women migrants in the sex industry across Europe spoke of empowerment strategies to enhance their security, economic power and safety within the sex industry. Restrictive migration and prostitution laws in Europe were identified as key structural obstacles to their empowerment.

The Complex Causes of Human Trafficking

The opinions voiced by the women at that conference challenge the assumption that trafficking for sexual exploitation is solely caused by demand for sexual services and trafficking can therefore be eradicated by abolishing the industry. We would suggest this is too narrow an understanding of the complexities of human trafficking and its causes. Trafficking, in the opinion of Anti-Slavery International, has to be understood in the context of a ‘migration-trafficking’ nexus (Kaye, 2003). In other words, a key root cause of human trafficking (whether for sexual or labour exploitation) lies in restricted migration and employment possibilities in Europe, which constrain many migrants to irregular movement which lead often to exploitative working conditions, whether those be in the sex industry, domestic work or the catering sector, amongst others. Ireland in line with its European counterparts has been closing down the opportunities for regular migration for 'low-skilled' migrants from outside the EU over recent years (Ruhs and Quinn, 2009) and we would suggest that this is an important cause of human trafficking and smuggling.

Most international opinion is agreed that interconnecting with restrictive migration regimes are other key root causes of human trafficking such as poverty and inequality in countries of origin (Parmentier, 2010). It is true that these intersect with demand for cheap labour in countries of destination – but this includes demand not just for sex but for care work and work in ‘3D’ industries. We would suggest that a comprehensive anti-trafficking strategy would have to address all these issues. Criminalization of the buying of sex will not address these complex structural causes.

It is also worth pointing out that the Swedish abolitionist law which is often presented as an anti-sex trafficking measure was first introduced in response to Sweden’s problem of on-street prostitution and only subsequently was framed to address the relationship of the domestic sex trade to sex-trafficking. In other words, it was not promulgated as an anti-trafficking measure, rather as an anti-street prostitution measure. It is noteworthy, however, that the law is now widely presented as an anti-trafficking measure thereby side-lining the need for a thorough investigation of its utility or efficacy in preventing sex-trafficking. Analysis from Norway also indicates that its 2008 ban on the purchase of sexual services was only latterly framed to address sex-trafficking and, moreover, was

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1 The seminar was organized by Cabiria a community based health care project for prostitutes in Lyon in France. Cabiria was founded in 1993 arising from a piece of action research by academics in the Centre for Anthropological Research and works with European and other partners and with the (EU) TAMPEP and EUROPAP projects. See www.cabiria.asso.fr/english.
not universally supported by women’s organization and feminists in the state (Knapp and Schaffer, 2010). In other words, it was also ‘re-tailored’ in the changed context of an increase in the number of non-national women involved in on-street prostitution.

The ‘jury remains out’ on the Swedish model

Research on the efficacy of the Swedish model is at best equivocal and indicates that its implementation has had a very variable impact. The jury still remains out on the long term impact of the law and its consequences, both foreseen and unforeseen (see Ward 2010). Moreover, the law needs to be assessed in the round (such as on grounds of justiciability, enforceability, unforeseen consequences, impact on women in the sex industry and the cultural fit between the law and wider social norms and so on) rather than on a crude accounting of reduction of women on the streets. As has been pointed out by many sources, and, echoing similar research on legal measures elsewhere, prostitution has been largely redirected rather than abolished as a result of this law and, moreover, the enforcement of the law has effectively rendered more vulnerable those whom the law initially sought to protect (see Ward, Irish Times 2011 at http://www.irishtimes.com/newspaper/opinion/2011/1019/1224306074609.html).

It is our opinion, that the campaign to ban the purchasing of sex (the Swedish model) has been subject to a concerted campaign in Europe and Ireland by policy entrepreneurs as a one-size-fits-all solution to the complex problem of human trafficking, which it was not intended to address in the first place. Its ‘retailoring’ as a powerful anti-trafficking law acts to foreclose on vital and necessary localized and contextualized debates required in each state, dependent on knowledge about the particularities of three dimensions a) the domestic sex trade (law and practice and sociological dimensions), b) the nature of the vulnerable populations which may be or have been targeted and c) the presence or potential presence of organized trafficking organizations. Staiger (2010) argues that effective strategies for sex-trafficking need to be informed by a careful analysis of all three factors in their relationship within context. Again we would suggest that this careful analysis has not been carried out sufficiently to date in the Irish context.

Staiger further argues, echoing the work of many other academics who have engaged in sustained analysis of the phenomena, that increased efforts at suppression of the sex trade in fact have the opposite effect to that intended and that legalization in fact can reduce the margins of traffickers and make it more likely that victims of trafficking will come forward to assist in detection by law enforcement agencies. This supports for instance the views of Self (2003, 2005) and Sanders, O’Neill and Pitcher (2009) who raise serious questions, based on careful and sustained research, about the usefulness of using legal measures to eradicate prostitution. Although to be balanced, it should also be noted that policy driven by the other end of the debate – the legalization of the sex industry – does not necessarily eradicate exploitation or trafficking from the system. As the Dutch National Rapporteur on Trafficking in Human Beings notes, a
regularized sector can create an irregular one and forced prostitution is not unknown in the legal sector either (National Rapporteur, 2010).

(iii) Summary of Recommendations

It has been suggested that best practice in relation to prostitution policy is to promulgate policy on evidence based research and not on policy driven research (Matthews, 2008). We strenuously recommend that Irish policy makers take the customary first step of establishing the exact nature of the problem and its social, political and economic context, and a comprehensive analysis of the range of responses, in advance of considering a single response.

Given all the above, we suggest that the current policy situation in Ireland may in fact represent the best kind of response – one in which prostitution is neither legalized nor abolished, in which the state is empowered to address trafficking through existing anti-trafficking legislation (and within that can prosecute for sex-trafficking specifically) and in which there is a commitment to address prostitution through welfare and education means rather than through the law.

It may be the case, given the complexity of the situation, the extreme vulnerability of those involved in sex-trafficking, the profound challenges in implementing the Swedish model, the costs to the state of pursuing a law which may not be, in practice justiciable and the apparent social consensus in Ireland that the sex trade should not be normalized, that the state is best not trying to ‘fix’ something which is not particularly broken, although it may not be ‘perfect’.

We hope very much that the members of the Committee will find this submission helpful to their deliberations and we would welcome the chance to meet the Committee and discuss these points further.

References


Introduction
Barnardos welcomes the opportunity to make a submission into the Joint Oireachtas Committee on the ‘Review of Legislation on Prostitution. As a member of the Turn Off the Red Light campaign, Barnardos strongly believes that the most effective way to tackle the issue of prostitution, in particular the exploitation of children through prostitution, is the introduction of criminal sanctions against the buyers of sex, as a way to discourage the demand for prostitution.

Child Prostitution in Ireland
The existence of child prostitution is an alarming indictment of Irish, and indeed, any society. Childhood should be a precious time when innocence is protected. We have a moral and societal responsibility to ensure children are protected from those who may harm them. This can be done through awareness raising and the provision of comprehensive legislation and social services for all children, particularly those most at risk of prostitution. The harm caused to children by sexual exploitation through prostitution has long lasting impacts on children and young people. The emotional impact of such experiences can show itself in self-destructive behaviour such as self-harm, addiction, overdosing, eating disorders and criminal activity.

It is extremely difficult to assess the scale of child prostitution in Ireland given its clandestine nature. The UN Committee on the Rights of the Child in its Concluding Observations in 2006 expressed its concerns at the lack of information concerning child victims of prostitution and child pornography in Ireland. The Committee also regretted the lack of specific information on the situation of child victims of abduction and trafficking for any purpose or in any form. The Committee recommended that Ireland collect information and undertake research on child prostitution, pornography and other forms of sexual exploitation and sexual abuse of children with a view to developing targeted measures.

As was noted by the Special Rapporteur on Child Protection, Geoffrey Shannon, in his Fourth Report¹, Barnardos has identified the categories of children involved in child prostitution as follows:

- Those who have left the care system.
- Those who have experienced homelessness.
- Those who suffer from alcohol and/or drug addictions.
- Separated and trafficked children.

The Special Rapporteur emphasised that children who have left the care system were of particular concern and since these were children who were brought into care by the State, the State, through the HSE, was obliged to care for them in circumstances where the biological parent(s) would not or could not.² The absence of a nationwide out-of-hours social work service and an incomplete aftercare services for children leaving the care system exacerbates the vulnerability of such children.

Children abused through prostitution are often not visible on the streets but rather kept behind closed doors in bed-sits, saunas, massage parlours and hotels.³ This makes it easier for abusing adults to continue to exploit these children for their own gain and gratification. The internet and

2 Ibid.
3 Barnardo’s UK (2001) Stolen Childhood, Barnardo’s work with children abused through prostitution.
Mobile phones have also made the grooming of children for the purposes of exploitation easier and also has implications for the proliferation of child pornography.

The daily lives of women involved in prostitution was starkly highlighted in the recently aired ‘Prime Time Investigates’ programme on prostitution in Ireland and reinforced many of the findings conducted on the few studies that have been conducted into prostitution in Ireland. A 2007 study found that half of the 22 Dublin women interviewed were under-18 years of age when they first became involved in prostitution. A 1997 study found that, from their sample of 57 women who were or had been engaged in prostitution, 47 were aged under-18 years, 10 were aged 18 or over and 80% had, or were, experiencing homelessness.

Of the 513 separated children who went missing from State care between 2000 and 2010, 440 are still unaccounted for. 6 separated children went missing in 2011 and remain missing as of July 2012. While it is likely that some of these children may simply have reunited with family either in Ireland or elsewhere, recent evidence shows that some may have been trafficked into prostitution. A report published by the Immigrant Council of Ireland exploring the sex trafficking of migrant women revealed that 11 of the 102 studied cases involved girls younger than 18 years.

More recently, the Irish Government annual reports on human trafficking stated that in 2010 out of the 56 victims of sex trafficking 15 were minors, and 8 out of 37 in 2011 respectively.

It should be noted, however, that while the focus on child trafficking has mainly been on children brought into the country from outside Ireland, indigenous Irish children are also victims of trafficking. According to the Anti-Human Trafficking Unit’s Annual Report of Trafficking in Human Beings in Ireland for 2010, of the 19 children who were alleged victims of trafficking, six were Irish children. (See section on Statistics, Prosecutions and Convictions from 2010 for more figures).

**Legislative Provision**

The Criminal Law (Sexual Offences) (Amendment) Act 2007 makes it an offence to solicit or importune a child (whether or not for the purposes of prostitution) for the purposes of the commission of a sexual offence. This amendment follows from Criminal Law (Sexual Offences) Act 2006 which makes it an offence to engage in a sexual act with a child under-15 years, regardless of the gender of the child. The Child Trafficking and Pornography Act 1998 penalises a variety of crimes in relation to trafficking in children for sexual exploitation and the manufacture and distribution of child pornography.

Despite the existing protection from sexual exploitation offered by the above legislation, Barnardos believes that the demand for prostitution continues to place vulnerable children at risk of prostitution. Anecdotally, we know from our work with children and families across Ireland that children in care are frequently at risk of exploitation through prostitution, a phenomena that is increasingly being documented in the UK.

According to Barnardo’s UK, which offers direct services to children who have been sexually exploited through prostitution, the average age range at which children are most vulnerable to sexual exploitation is 13-15 years. In fact, Barnardo’s UK has worked with boys and girls as young as 10 and 11 who are known to have been sexually exploited.

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6 Irish Times, 10th January 2011;
7 Statement by Deputy Ciara Conway T.D., Vice-Chair, Oireachtas Committee on Health and Children, 4 July 2012
8 “Globalisation sex Trafficking and Prostitution and Experiences of migrant Women in Ireland”, Kelleher et al., 2009
10 Barnardo’s UK (2001). Stolen Childhood, Barnardo’s work with children abused through prostitution.
In its research on sexual exploitation of children and young people, published in October 2011, Barnardo’s Northern Ireland found that the most frequently identified forms of sexual abuse were through prostitution (mostly involving third-party organisation and for financial gain), sexually exploitative relationships and less obvious transactional exploitation in the context of ‘party houses’\(^{11}\). The research also found that internet exploitation and trafficking for the purposes of sexual exploitation were also identified as issues of concern although less frequently.

According to the research, young people aged 12 to 15 years emerged as the age group most at risk of experiencing sexual exploitation. Similar to the situation in the Republic, children in care in Northern Ireland were also found to be at greater risk of sexual exploitation than those outside the care system, although the research noted that the risk was not equally experienced across the care population\(^{12}\). Young people in residential care were found to have experienced significantly higher rates of risk than their peers in foster care placements. Within the cohort in residential care, females were observed to be at particular risk\(^{13}\).

**Conclusion and Recommendation**

The routes into prostitution begin before women turn 18 and Barnardos believes that prostitution exploits the vulnerability of children and young people who do not have the opportunities others have as a result of poverty, previous neglect or abuse and lack of educational opportunities.

The evidence indicates that the continued demand for prostitution and the potential financial gain for those who organise prostitution continue to pose a significant risk to vulnerable children and young people. Experience shows that the tender age or obvious vulnerability of a person alone cannot act as deterrents for the buyers of sex\(^{14}\) and a more comprehensive approach is needed in tackling the demand for paid sex. International research from 2003 and 2009\(^{15}\) expose the fact that men are aware of the vulnerable status of women, which does not discourage them from buying these same individuals for sex.

Criminal record, including the risk of disclosure has been identified by the buyers themselves as a reliable deterrent of their actions\(^{16}\). Penalties are the most efficient proven approach to deter men who contemplate buying sex. As a member of Turn Off the Red Light campaign, Barnardos believes that the reduction of demand for paid sex leads to decreased supply of prostituted people, among them those who have been forced, controlled, trafficked, those who are minors or have other vulnerabilities.

In the interest of protecting children and young people at risk of sexual exploitation through prostitution, Barnardos recommends that Government introduce legislation to criminalise the purchase of sex whilst also ensuring that people in prostitution are not criminalised but are offered support services. Many children and young people in Ireland do not begin life on a level playing field. Their circumstances and experiences mean they get left behind in many respects; legislation to criminalise the purchase of sex would at least mean that their vulnerability is not exploited for the sexual gratification of others and that other routes are open to them to build positive futures for themselves and their families.

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\(^{12}\) Ibid.

\(^{13}\) Ibid.

\(^{14}\) “The harsh realities of ‘being raped for a living’”, *Irish Examiner* Wednesday, February 15, 2012

\(^{15}\) “Men Who Buy Sex: Who They Buy and What They Know”, Farley, Bindel, Golding 2009

\(^{16}\) Farley 2011, McLeod 2008
SUBMISSION

to the Joint Oireachtas Committee on Justice, Defence and Equality

on the ‘Discussion Document on Future of Prostitution Legislation’

31 August 2012

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SUMMARY

August 31st, 2012

I. INTRODUCTION

The ICI welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’, which offers us the opportunity to share our experiences, concerns and to contribute constructively to the national consultation, launched by the Minister for Justice and Equality.

The Immigrant Council of Ireland (ICI) is a human rights organisation and an independent law centre. It advocates for the rights of immigrants and their families, and acts as a catalyst for public debate and policy change. The ICI was established in 2001 by Sr. Stanislaus Kennedy, to develop innovative responses to Ireland’s changing society. Over the past decade, the ICI has developed significant expertise and has become one of the lead organisations in areas, such as immigration, integration and human trafficking. Our law centre status allows us to provide legal representation to migrants at a particular risk, including victims of trafficking and women in the sex industry, victims of domestic violence and separated families. The extreme vulnerability of our clients have encouraged us to lobby for integrated, rights-based immigration approach and policies geared at protection of such individuals, and at closing the gaps, where their exploitation occurs.

Our ongoing work with young and vulnerable migrant women, in addition to the extensive research we carried out in 2009¹ inform our lobbying efforts in the area of sex trafficking and prostitution. We support and coordinate the national campaign Turn Off the Red Light: End Prostitution and Sex Trafficking in Ireland, firmly believing that penalties for men who purchase sex in Ireland coupled with supports to women and young people selling sex, is the only adequate and practical approach to prostitution in Ireland.

The ICI refutes that prostitution is a harmless, commercial transaction between consenting adults, where people willingly choose to become involved. People in prostitution are primarily poor and disturbingly young. Most of them are forced into it by circumstances or by other people, where they suffer severe physical and emotional harm with life-long consequences. Byers of sex, on the other hand, are not compelled by economic needs and have freedom over their own decisions. They could and should be held accountable for the unacceptable choices they have made by purchasing vulnerable individuals for sexual satisfaction.

Most of the people who sell sex are young migrant women. The ICI does not view them as “consenting adults” in the prostitution transaction, on par with buyers who are men with money. Prostitution thrives on inequality, violence and criminality. The ICI submits against this intolerable phenomenon, and calls on the legislators to end it.

II. FACTUAL INFORMATION

1. HUMAN TRAFFICKING

Trafficking for the purposes of sexual exploitation is by far the predominant form of human trafficking in Ireland. Ireland is a signatory to the two major international treaties as well as to the latest European Directive in the area of human trafficking, and each of these documents contains a specific provision obliging the countries to introduce legislative and measures, to discourage demand. What are the measures put in place in Ireland, and how efficient they are in reducing demand is an intrinsic part of the present consultation.

There is a sufficient body of knowledge backed up by some in depth research from Ireland on the issues pertaining to prostitution and sex trafficking. In 2009, a report was published by the ICI titled “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland”. This report was a result of one and a half years research by a team of independent researchers, who explored the intersection of migration, prostitution and sex trafficking. Their work was overseen by an Advisory Committee including the Dept of Justice and Equality, An Garda Siochana, the Health Service Executive as well as national and international NGOs operating in Ireland. The Government has identified the response to the findings of the research as a priority measure under the National Action Plan on Combating and Preventing Trafficking in Human Beings.

Trafficking is now recognised in Ireland as a complex problem that is built upon repressive methods and can often involve deception, forced travel and long journeys, physical and psychological coercion, rape, holding victims in captivity, removing passports and other documents, withholding earnings and setting impossibly high repayment sums to get back passports and other documents. At the same time it is becoming increasingly clear that traffickers and recruiters use similar sophisticated methods of persuasion and enticement, exploiting women’s situation of vulnerability, including their need to migrate from situations of extreme poverty to seek sustainable livelihoods. Thus, the trafficking of women into the sex industry and the recruitment and exploitation of migrant women into prostitution are intertwined and need to be understood in the context of global labour migration. The ICI report credibly establish that from January 2007 to September 2008, there is evidence of at least 102 cases of trafficking for sexual exploitation, where 11 of the cases involved female minors. This particular finding tallies with the subsequent findings of the Annual Statistical reports produced by the Dept of Justice and Equality in 2009, 2010, 2011, each of them reporting the presence of children in sex trafficking situations.

Victims of trafficking are recruited by a person known to them, with fake promises or under duress. Once, in Ireland victims of trafficking are placed in a situation of indoor prostitution where they are controlled by prostitution organizers and pimps, and sold repeatedly to sex buyers. Their subordination is obtained through violence, threats, blackmail and other tactics similar to those used by pimps. Like pimps, traffickers prey on the vulnerability of the young girls, and tie them to their sickening business while pretending to be their saviours and friends.

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2 Article 9(5) of the UN protocol to Prevent, Supress and Punish Trafficking in Persons, especially Women and Children (Palermo 2000) and Article 6 of the Council of Europe Convention on Action against Trafficking in Human Beings(2005)
3 EU directive 2011/36/EU (Article 18.4) on prevention and combating trafficking in human beings and protecting its victims, which Ireland has to transpose by April 2013.
5 Ibid
6 “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher 2009)
2. CHILDREN
While the ICI report revealed that in 11 of the 102 cases, the victim of trafficking was a minor girl, more recently the annual reports of the Dept of Justice and Equality reported that 8 and 15 of the suspected victims were children, respectively in 2011 and 2010. In 2010, during the Court proceedings against Thomas J. Carroll, it was revealed that his brothel operation was selling a girl aged 15 and another aged 17.

By now, the presence of children in the indoor sex industry is an undisputed fact in Ireland. In 2009, the National Advisory Committee on Drugs published a report “Drug Use, Sex Work and the Risk Environment in Dublin” based on 35 interviews with Irish drug addicted people in street prostitution, and concluded that a “significant minority” of them entered prostitution as minors.

These facts from Ireland coupled with the international research showing that the average age of the people entering prostitution is shockingly low (fourteen years according to USA study)8 highlight the necessity to demand that the tolerance to prostitution be ended, because children cannot be accepted as collateral damage under any circumstances.

4. SEX INDUSTRY
The 2009 report of the Immigrant Council mentioned earlier exposed a large and geographically spread industry, with an annual value of 180 million euro (We note that TV documentaries since then have placed the estimated annual value at 250 million euro). Sex is sold in hotel rooms and privately rented apartments. Women could be also ordered to private homes. Clients could order women through an online order-form outlining the desired woman’s ethnic, physical characteristics and sexual acts she is required to perform. The sex industry has spread to every corner of the country, and on average 1000 women are available for sale in Ireland on any given day. The vast majority of these women, 83% - 97%, are migrant women9. This statement in the report has been confirmed by independent journalistic inquiries and by two separate audits of the internet websites that offer escort services from April 2011 and February 2012, when 1,052 women and 1,124 women were offered respectively.

The prevalence of migrant women in Ireland mirrors the existing situation in other Western European countries, where the majority of people in prostitution are of migrant background. For example, estimates from last year suggest that at least 90% of the women in prostitution in Spain are migrants10. Women living in poor economic conditions are deceived by an optimistic picture of income that can be earned in the sex industry. Many are also targeted and recruited by agencies. We believe that in the present era of globalisation migration and prostitution are structurally linked and the laws adopted in the past to regulate prostitution have ceased to fulfil their functions. The ICI favours an approach to prostitution and trafficking that closes the niche of exploitation of vulnerable people, majority of whom migrants, and that simultaneously undermines the growing commercialised sex business in Ireland.

5. HEALTH CONSEQUENCES
Women in prostitution suffer severe physical and psychological consequences. 2007 statistics from the HSE women’s health project based on 164 clients of the clinic show11 that: 37% of clients had bacterial vaginosis (BV) which symptoms include abnormal vaginal discharge with odour and genital itch; 31% had candida infections (thrush); 22% had hepatitis A (affects the liver and blood); 20% had hepatitis B (viral infection with long-

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8 US Dept of Justice “Child Exploitation and Obscenity” (CEOS)
9 “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher 2009)
10 Migration Policy Sheet, Brussels, Sept 2011
11 “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher 2009)
term complications including liver cirrhosis and cancer); 14% had Chlamydia (infection that can lead to pelvic inflammatory disease (PID) and infertility); 10% had urinary tract infections and 14% had vaginal/genital warts.

In addition, the coordinator of the clinic stated that “women suffer from anal itch and fissures [tiny tears to the skin] and this puts them at increased risk of HIV transmission, particularly given the pressure on women to have sex without a condom, which puts them at an increased risk of HIV. Repeated use of lubricant and condoms, in our experience, also causes discomfort and skin breakdown”.

There is no psychological report evidence from Ireland, but international research suggest that like combat veterans, women in prostitution suffer from posttraumatic stress disorder (PTSD), a psychological reaction to extreme physical and emotional trauma. Symptoms are acute anxiety, depression, insomnia, irritability, flashbacks, emotional numbing, and being in a state of emotional and physical hyper alertness. Remaining safe and healthy is a daily struggle for women involved in prostitution. Migrant women, in addition, report loneliness and isolation, and fear of the long term consequences they may suffer.

Research consistently indicates that there is no safe location for prostitution. Rape, physical violence, forced sex without condoms, abusive and dangerous sexual practices are constant risks, whether it is on the streets or in indoor locations. Concern for the health and safety of sex workers and the desire to make sex work a voluntary regulated occupation has led some policy makers to argue against the criminalisation of the sex industry. In fact, the evidence from other jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that those aspirations were ill founded.

In Germany an extensive evaluation in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance and the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses. Similarly in the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any increased safety for women but rather a massive legal and illegal trade in migrant girls and women and that combating the exploitation of involuntary prostitution is ‘virtually impossible’ to ascertain. Furthermore the evaluation found that pimping is widespread and that the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased. A review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation, integrate it into employment law or create the conditions in which women's health and safety can be protected.

6. AGENCIES and ORGANISED CRIME

While some women operate independently, many are linked to prostitution agencies, which exercise different levels of penalty, control and violence that is difficult to determine due to the clandestine nature of prostitution. The following is an account of a woman commenting on the agencies she was with: “In the first agency, I worked for eight months. There were two girls in each apartment and you were available 24/7 to clients. Whether you were sleeping or cooking dinner, it did not matter; you had to answer the phone. The men were told they could do anything and if you refused they complained and you were fined €400.

15 Daalder, A.L. (2007). Prostitution in the Netherlands since the lifting of the brothel ban. The Research and Documentation Centre (WODC), the Hague, the Netherlands.
The second agency was cheaper and different one. There were about 10 girls in the apartment. You worked from 7pm to 5am, mostly after 2am. We would walk up and down and men would come and choose which girl they want. It was quicker, more normal sex and the men were younger but you could see up to 10 men a night."

Recent documentaries on RTE\(^{17}\) and TV3\(^{18}\) reinforced our understanding of the organised nature of prostitution. ‘Profiting from Prostitution’, which was based on six months of surveillance, exposed the control exerted over women by pimps and the criminal structure of an organised brothel network in Ireland. ‘Ireland’s Vice Girls’ documentary revealed the tactics of force and fear used by pimps to collect their criminal earnings from women. It is universally known that a range of organised criminal activities are associated with prostitution. In the revelations made during the Court case against TJ Carroll (Thomas Joseph Carroll from Co Carlow\(^{19}\)) it became abundantly clear that his prostitution business involved human trafficking, brothel running, extortion and coercion as well as money laundering. In fact, the details around his criminal activities can be read as a summary of the ICI report from 2009. Carroll operated over 20 brothels in Ireland where over 70 women were used on rotation, majority of whom were migrant women recruited in South Africa, Portugal and Nigeria, and some were as young as 15 and 17, which clearly indicate the presence of human trafficking.

In a more recent Court case in Romania\(^{20}\), where the boss of the criminal gang Ghenosu was convicted for trafficking Romanian women into Europe, including into Ireland, the prosecutors concluded that the gang was running a ‘VIP’ prostitution service in Ireland. The Ghenosu were impressed with the way escort (prostitution) business was organized in Ireland, so much that they intended to replicate the business model in Italy. It was made clear that the women they were controlling and selling in Ireland appeared as independent high-end escorts on the websites. The ICI believes that measures against prostitution are an integral part of the fight against organised crime, which is also evident in the findings of the ten year evaluation of the Swedish Law\(^{21}\) concluding that criminal gangs find Sweden less attractive due to its subsiding prostitution market.

7. LEGAL APPROACH TO PROSTITUTION IN OTHER COUNTRIES IN EUROPE

Comparative data from Sweden and the Netherlands illustrates that the different approach taken to prostitution in both countries had yielded completely different outcomes that have profound effects for the wider society as a whole.

7.1. Approach in the Netherlands

On the first of October 2000, the Netherlands lifted the ban on brothels and prostitution organising, thus becoming the first country in the world to legalise prostitution, to accept ‘sex’ as work and to decriminalize pimps. The country attempted to adopt a pragmatic approach to prostitution as towards an inevitable situation, which needs to be made “as pleasant as possible”, by aiming to improve the employment status, the working conditions and to generally empower women. The State put in place a brothel licensing system, education for women about their ‘employment rights’, imposed taxes and police checks, while the executive role and administrative responsibility stayed with the municipalities.

The review however, reveals that the licensing system applies only to brothels. Various other establishments such as erotic massage salons, sex cinemas and theatres, sex clubs,
private houses, escort agencies operating on mobiles remain unmonitored. There is a huge legal sector consisting of 1,300-1,700 legal brothels/location bound premises that exists along with a virtually unknown number of illegal and non-location bound premises (i.e., private apartments). The most common reason for receiving sanctions during the municipality check-ups of licensed brothels is the presence of prostitutes without valid residence and/or work permit. The country has a population of 16 million with 25,000 prostitutes and over 1000 trafficked women. In Amsterdam alone, between 8000-11,000 (75%) women in prostitution are migrant.

Government sponsored research states that it is impossible to comment on the number of prostitutes in the Netherlands who are working under some degree of coercion. The same report states there has been ‘no significant improvement’ for women but rather the emotional well-being is lower on measured aspects, such as use of sedatives. Options for leaving prostitution remain in high demand but only 6% of municipalities offer assistance. While the report states that a reduction of foreign illegal nationals has been achieved, still the majority of prostitutes in the Netherlands are born abroad and a substantial part of the interviewing for the research had to be conducted in foreign languages, mostly Spanish and English.

The National police force (KLPD) estimates that 50% to 90% of the women in licensed prostitution ‘work involuntary’. Bearing in mind that the number of women in window prostitution in Amsterdam is 8000, then in this city alone there are at least “4,000 victims of trafficking on yearly basis” (p 14).

Another piece of Government sponsored research from 2010, analysed 2,600 prostitution related ads in newspapers and on the internet, and concluded that in only 17% of the cases the ads were placed by licensed establishments. The report exposed the shift towards illegal, unmonitored sectors. Organised crime is strongly rooted in Amsterdam, where half of the permit-required businesses in the notorious Wallen district have one or more managers with criminal record.

7.2. Approach in Sweden

On the 1st of January 1999, Sweden was the first country to pass a law that prohibits the purchase of sex. On the other hand, those who sell sex were decriminalized in view of their subordinate status and limited life choices. The rationale for the offence was rooted in the belief that prostitution is a serious barrier to gender equality and it causes serious harm to the people involved in prostitution as well as to the wider society.

The outcomes of the High Level Inquiry, headed up by a Supreme Court Judge in 2010, showed that since the introduction of the ban street prostitution has halved. In 1995, the estimated total was 2500-3000 women in prostitution with 650 of those on the streets. In 2008, there were 350 advertised prostitutes on the internet and 300 on the street. In

22 DSP-Groep (2006). Evaluate opheffing bordeelverbod. Gemeentelijk beleid; English Summary conclusions. Amsterdam:WODC. Commissioned by the Scientific Research and Documentation Centre of Ministry of Justice (WODC)
23 Daalders, A.L. (2007). Prostitution in the Netherlands since the lifting of the brothel ban. The Research and Documentation Centre (WODC), the Hague, the Netherlands.
24 Ibid.
26 Ibid
27 Ibid
comparable jurisdictions, Norway and Denmark, the number of people in street prostitution has increased over the same period. For example Denmark in 2008, reported 5567 people in prostitution, including 1415 of them in street prostitution.

Indoor prostitution in Sweden, including massage parlours, sex clubs, and hotels has not increased, and even though over the past decade internet prostitution has increased in all of the mentioned Scandinavian countries, this increase has been less extensive in Sweden.

There is no indication that criminalisation has increased the risk of violence or worsened the conditions of those people exploited through prostitution. Women in prostitution have not been adversely affected, as they are no longer criminalised, and have a space to consider their choices.

Trafficking is considered to be of a substantially smaller scale than in comparable countries. The National Criminal Police believe the law has acted as a barrier to human traffickers and procurers. In Sweden, a spectrum of offences i.e. aggravated procuring; procuring; attempted/aided procuring enables more prosecutions of traffickers(and/or pimps) as trafficking offences remain notoriously difficult to prosecute these days.

The ICI is concerned that the Discussion Document repeatedly cites a very out of date report on Sweden from 2004, carried out only three years after law was enacted. Since that time the context has changed and many of the concerns raised in relation to enforcement have been dealt with, in particular the focus on the indoor sex industry and the claim that it had gone underground. The police are engaged in extensive operations in relation to the indoor market – including surveillance, phone tapping, monitoring of sites, mobiles, advertisements etc.

Prostitution has not gone ‘under ground’, contrary to the threats of the pro-prostitution lobby in Sweden, because prostitution has to always reach its ‘customers’ and remains visible in this regard.

The ban has proved to be an effective deterrent to sex buyers as polls show decrease from 13.6% in 1996 to 7.9% in 2008. The law enjoys continuously strong support among the public (70% -80%), and has led to positive change in attitudes, such as the intolerance to the idea that a person can be a commodity for sexual games.

8. LEGAL APPROACH TO PROSTITUTION IN IRELAND

Presently, various activities associated with prostitution are illegal in Ireland, such as curb crawling, soliciting, loitering in public places, brothel keeping and living off immoral earnings. However, the buying and selling of sex remains protected by omission under the presumption that this is a private contract between consenting adults.

The stated aims of the latest prostitution regulation law, the Sexual Offences Act 1993, had been to firstly, protect the public from the more intrusive aspects of prostitution, hence the criminalization of the solicitation on the street and of the kerb crawling, and secondly to protect the people who sell sex.

34 National Police Board (2010) Situation Report 1:1 Trafficking in Human beings for Sexual and Other Purposes
35 It must be noted that Section 5 of the Criminal Law (Human Trafficking) Act 2008 penalises buyers who knowingly use the services of trafficked individuals. However, it is a defense to prove that the user did not know that the person delivering the service was trafficked. Furthermore, a ‘trafficked person’ is defined as ‘a person in respect of whom a trafficking crime has been committed’, and there is concern that this may be interpreted as requiring a conviction of a person for the trafficking offence before somebody could be prosecuted for buying sex from the trafficked person. In addition, the determination of what constitutes a “trafficked person” is problematic.
Looking at the second objective relevant to protection of people in prostitution, we acknowledge that the law makers could not have had in mind the significant number of foreign nationals, many lacking proper authorization to be in the country, when the law was coined. Under the present circumstances, the intended outcome can hardly be achieved because the status of the individuals, in need of protection under this same objective, has become much more complex.

As far as the intention to protect the public from the visible manifestations of prostitution is concerned, this has also changed insofar as prostitution has moved indoors to private residential homes, and residents today complain and report prostitution activities when these occur in their own common space of living. In that sense, the on-the-street approach to protect the public does not address the changed indoor character of prostitution.

In the context of the expanded prostitution business nowadays, the old concept of “two consenting adults” embedded in the Sexual Offences Act 1993, has disappeared and dissolved within the commercialization of the indoor prostitution activity, within the normalisation of the act and the commoditisation of the prostituted person.

For these reasons, the ICI believes that the legal approach to prostitution in Ireland and the entailed objectives need serious revision, and ICI welcomes the present consultation process.

III. LEGAL CONSIDERATIONS REGARDING THE INTRODUCTION OF PENALTIES FOR BUYERS OF SEX IN IRELAND

The ICI, as part of the Turn Off the Red Light campaign, has undertaken to research and to verify whether criminal penalties for buyers of sex could be introduced into the Irish legal system. We have obtained opinions from independent legal experts, including a senior counsel, Ms Aileen Donnelly SC, and we are enclosing for your consideration her opinion as well as several other legal assessments which we hope will contribute constructively to the discussion process.

The conclusion reached by the legal experts is that there is no barrier to the introduction of such criminal offence of strict and regulatory nature in the Irish law. In relation to possible complications stemming from the CC vs Ireland judgment, legal experts remind that the Supreme Court has not deemed the introduction of strict liability offences in relation to crimes of sexual nature constitutionally impermissible [APPENDIX 1. An analysis on the potential for implementation of provisions criminalising the purchase of sexual services in Ireland by Aileen Donnelly SC, Immigrant Council of Ireland, 2010 ]. Provision for defence linked to the “state of mind” does not need to accompany this penalty, in view of the relatively low penalties recommended and in the context of the regulatory civil nature of the offence. Furthermore, according to an opinion obtained from Mr Alan D.P. Brady BL, the difficulties stemming from the possible penalisation of a mentally innocent person cannot be a barrier if there is already a prohibition of the purchase of sex in general terms. [APPENDIX 2. Turn off the Red Light Campaign Research memo on strict liability by Alan D.P. Brady B.L., 2011 ]

In addition to the research cited above, we have obtained a legal opinion on the penalties for buyers, which is enclosed herewith [APPENDIX 3. Research note on penalties for purchasers of sex by Alan D.P. Brady B.L., 2011].

We further offer for your consideration a proposal for legislation which would regulate the confiscation of mobile phones used for the promotion of prostitution as well as for the shutting down of websites licensed in a different jurisdiction that advertise prostitution for
Irish citizens on Irish soil [APPENDIX 5. Opinion on mobile phones and websites used for the promotion of prostitution in Ireland by David Dodd B.L., 2011].

Enclosed is also a piece of research of the relevant legal provisions in Northern Ireland, to inform any arising synchronicity considerations in the course of the consultation [APPENDIX 6. Legislative provisions in Northern Ireland on the purchase and selling of sex by Suzanne Fleury B.L., 2011].

A legal opinion regarding the possibility for immunity from prosecution for perpetrators under the new offence, provided such is introduced, is also enclosed, and we believe this would be of interest in cases where the buyer of sex possesses valuable information about a crime with significant gravity i.e. organised crime [APPENDIX 4. Research Note on Immunity and Leniency for Purchasers of Sex, by Tatiana Kelly B. Ling (Hon), CTA, Dip. LS, LL.B (Hon) candidate at NUI Galway 2012]

The legal opinion by Aileen Donnelly SC, contained in Appendix 1, which was commissioned by the ICI in 2009, offers a draft amendment to Sexual Offences Act 1993, making it an offence to ‘obtain a sexual service by way of prostitution’ and a separate offence to ‘request, agree to or contract for’ the obtaining of sexual services by way of prostitution [Appendix 1, page 9].

Having studied the Irish legislation and considering the expert legal opinions contained in the Appendices, the ICI remains confident that the Irish legal system would allow for the introduction of penalties for buyers, and we hope that the national legislators will be assisted by the enclosed body of legal research in their deliberations on this matter allowing them to introduce clear deterrents against demand for prostitution in Ireland.

IV. RECOMMENDATIONS

The ICI believes that the sex industry exploits and harms people, primarily women and children. It exists because there is a demand from men to buy sex that has been tolerated for centuries. The number one deterrent to buying sex among buyers is the threat of public exposure or a criminal record.\(^{36}\)

The ICI submits that the present tolerant approach to paid sex in Ireland is not of benefit for the society as a whole and for younger generations in particular who are forced to live within the increased normalisation of prostitution as ‘sex work’ and its disguise as an ‘occupation’ for ‘other’ mostly foreign women.

The ICI submits that the present “public nuisance” approach to prostitution alone would not be sufficient to address the societal knowledge of the abuses and the exploitation taking place in the communities, given the increased human rights awareness of the Irish society.

The ICI recommends that the following question finds a satisfactory and reassuring answer as part of the prostitution law review: How do we ensure that vulnerable migrant women in prostitution are protected and that children are rescued, while at the same time we tolerate a widely spread commercial sex business that has a potential to grow further?

The ICI recommends that the Irish Government recognises the need for a modern approach to prostitution that reflects the best international practice, where tackling the demand for paid sex plays central role. This can be achieved by penalising the purchase of sex, along the lines of the legislation, which shows a proven efficiency in other European countries.

The ICI recommends that the Government acts by amending the 1993 Sexual Offences Act to criminalise the purchase of sex by introducing monetary penalties for buyers of sex that involve postal notification. The firm rejection of the purchase of sex is the correct message to younger generations because it reinforces well established Irish values, such as the importance of consensual sex where money, power and anonymity play no role.

The ICI recommends measures, including guidelines to law enforcement to ensure that people selling sex are not criminalised and re-victimised but instead supported, including for the purposes to exit prostitution. The ICI rejects the calls for the right of people to exchange money for sex, because such calls disregard the prevailing opinion among prostituted people who want to exit prostitution. Their own firm position and their apparent vulnerabilities have to be sufficient to convince the legislators beyond any doubt that prostitution is not a desirable place for them to be in.

The ICI appeals to the Irish legislators, when debating prostitution legislation to have due regard to the simple but profound values in the Irish society, such as to pursue and enjoy sexual relationships that are based on consent and affection, the right to stay unharmed, the right of women to feel equal, the right of society to protect women and children, the pursuit of gender equality, and the right of communities to know that no perversions, violence and human rights abuses are taking place in their midst.

The ICI firmly believes that the ultimate beneficiaries of the ban will be the communities and the Irish society as a whole, where harmful degrading practices, such as prostitution, are set on the way to disappear.

ICI, 31 August 2012

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Response to Relevant Questions
from the Discussion Document on the Future Direction of Prostitution Legislation

The Immigrant Council of Ireland supports the introduction of criminal penalties for the buyers of sex coupled with measures ensuring the non-criminalisation of vulnerable people involved in prostitution.

For these reasons, we are submitting response to the General Questions posed by the Consultation document as well as to those pertaining to the Swedish approach, which most closely reflects the Immigrant Council of Ireland’s recommendations.

GENERAL QUESTIONS
(from Discussion Document, Chapter 1, page 5)

Question 1: Is the present rationale for criminal legislation on prostitution, i.e., the protection of society from a nuisance and public order perspective and the protection of prostitutes from exploitation, a sufficient basis for future legislation in this area?

The present consultation process is a clear indication that the prostitution regulations need a serious review in order to assess their effectiveness within the current social reality in Ireland and the challenges presented by the vast indoor sex trade based on exploitation of migrants where human trafficking and child trafficking takes place, and where the normalisation of the act of paid sex has become apparent.

It is safe to assume that the criminal legislation delivered on specific objectives and rationale in the context of the early 1990s, when it was introduced. However, the drastically changed nature and scope of prostitution presently could not have been foreseen and taken into account at the time these regulations, including their rationale had been considered and adopted by the legislators.

Prostitution has since moved indoors and multiplied many times due to the development of new advertising and communication technologies as well as the availability of cheap travel. The number of people involved in prostitution has dramatically increased – those who buy sex being primarily white Irish men and those who sell sex primarily migrant women. There is sufficient evidence that Ireland has become a destination country for sex trafficking of migrant women.
and that children are detected in situations of sexual exploitation, which is documented in research, including in the Government annual reports on human trafficking in the last couple of years. The value of the sex trade has been placed between 180 and 200 million euro\(^1\).

Under these new circumstances it is reasonable to question whether the same rationale could constitute the basis for our reviewed legal response. Whether considerations around public nuisance alone would be sufficient to address the public knowledge of the abuses and the exploitation taking place in the communities, given the increased human rights awareness of the Irish society? Whether or not it is of benefit for the society as a whole and for younger generations in particular to live with increased normalisation of prostitution as ‘work’ and its disguise as an ‘occupation’ for ‘other’ mostly foreign women. How do we ensure that vulnerable migrant women in prostitution are protected and children are rescued, while at the same time we tolerate a widely spread commercial sex business that has a potential to grow further? We hope that these and other questions will find a satisfactory answer as part of the present review, which outcome will shape our new vision, new rationale and respective responses.

We perceive the public nuisance approach to prostitution as less than satisfactory, at a time when we have become fully aware of the dangers, exploitation and child abuse that accompany prostitution, occurring in all communities in Ireland. We demand a modern approach that will stamp out these human rights abuses by categorically discouraging demand for prostitution in an unconditional and clear manner, and irrespectively of the knowledge of the buyer of sex. The present legal deterrents that grade the complacency of the buyer in the act of prostitution on the basis of his knowledge have proven to be inadequate to prevent the wide spread of prostitution, its inherent exploitation and the changing culture towards the normalization of the paid sex in our communities.

We believe that the second aspect of the rationale concerned with the protection of prostituted people from exploitation remains valid. However, we are not convinced that the present measures successfully deliver on the intentions in this regard, simply because they are geared towards a different environment, which no longer exists. The present response for example does not take into account the prevalent young age of the prostituted people, the massive presence of vulnerable migrants in it and the continuous evidence of child prostitution and it certainly disregards(ignores) the important role buyers play in the exploitation chain but rather relieves them of any responsibility when prostitution is conducted out of public eye.

**Question 2: If not what policy objectives should underpin future legislation?**

Any future objective has to be informed by the reality of prostitution, which is a place where vulnerable, primarily young migrant women, including children, are exploited and sexually abused by men who can afford to pay for this. We believe that the State has to ensure that this position of vulnerability is not taken advantage of, regardless of the prostituted person’s age, nationality and reasons for being in prostitution.

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\(^1\) Profiting from Prostitution, RTE, Paul Maguire [http://www.rte.ie/news/av/2012/0207/primetime.html#page=2]; “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher 2009)
In order to construe fair objectives that are rooted in reality, we have to openly acknowledge who is affected, who is privileged and who is harmed and how the phenomenon of prostitution affects the society as a whole. These issues have been explored nationally and internationally. In Ireland we have a sufficient and fairly recent research and investigations into the sex industry, such as the ICI report from 2009, the NACD report from 2009, the RTE investigative documentary Profiting from Prostitution and the TV3 documentary Ireland’s Vice girls broadcast in 2012.

While diversity is present in every social group or category, there are undeniable facts about the profile of people who sell sex: they are primarily young and female, including teenage girls below and around the age of 18. In excess of 90% are migrants, which has provoked the interest and the concerns of the migrant activist organisations in Ireland. Another indisputable fact is that these young people are of poor background, and they have limited opportunities and choices in the countries of origin as well as in the destination countries. Many have entered prostitution as children. Some have come from difficult disintegrated families and a high proportion of them have experienced child sex abuse. There are those who are controlled by other agents, such as pimps, madams, advertising and organising agencies, traffickers and smugglers.

As a result of this, it is only reasonable to acknowledge that their selling of sex is often carried out under control, some times under duress, and at the minimum has been prompted by unfortunate circumstances and at a tender age. To ascertain their ‘choice’ and ‘freedom’ in the selling of their bodies for the sexual gratification of others, is an attempt to deny knowledge of their uneven start and their unequal chances in live. This is the reason unions have taken a categorical stance in Ireland that a position of solidarity with prostituted people requires to fight the markets and the culture that exploits and compounds their vulnerability, and not to endorse their sufferings and fear as a preferred vocational option.

If we leave aside the criminal and almost universally deplored role organizers, promoters, pimps and traffickers play, we are left with the second main actor in the prostitution transaction - the men who purchase sex. With some minor exceptions and isolated cases primarily in countries where prostitution is legal, it is entirely men who purchase others for prostitution and we will refer to these men as sex buyers.

There is ample evidence from surveys, and reports from neighbouring countries that offer information on the ‘contemporary sex buyer’. This is a man with an occupation and on at least an average income, in a relationship or marriage, who prefers to have multiple sexual partners and to watch porn. This is a man who buys sex with complete impunity under the existing regulations governing the indoor prostitution in Ireland. While those who sell sex are potentially liable for a variety of offences in relation to their immigration status, the premises where they sell sex, the lack of other income, men who buy sex enjoy immunity from prosecution. With the exception of article 5 of the Criminal Law Human Trafficking Act 2008, that provides penalties for men who knowingly purchase for sex trafficked persons in Ireland, which hardly

2 “Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher et al 2009)
3 “Drug Use, Sex Work and the Risk Environment in Dublin” (Whitaker 2009)
4 The Irish Escort Client Survey (Escort Surveys 2006) and the Irish Study of Sexual Health and Relationships (Layte et al 2006)
troubles the buyers as they can use lack of knowledge as a defence, there is no other attempt to place a responsibility with sex buyers.

We have to acknowledge that there is not one prostitution markets for women of full age, another one for teenagers, and yet another one for trafficked or controlled individuals. The market is the same for all of them, and the men who purchase are the same. **Men who buy sex constitute one of the many commonalities between sex trafficking and prostitution, which makes the two phenomenon indistinguishable in practice.** Men who purchase sex purchase all people who are available for sale –migrant women, native women, teenagers, boys and girls. Front line service providers in Ireland, work with people who have practically grown up in prostitution while being purchased and raped daily by the so called ‘clients’. It is telling that the detected victims of human trafficking in Ireland have been purchased and raped by men on Irish soil, yet there is not one prosecution against buyers.

All international treaties relevant to human trafficking contain clauses for the reduction of demand in recognition of the links existing between the general prostitution trade and the supply of trafficked people, and while the minimum standard on how States do this are not prescriptive, every country has the obligation and the right to decide how to deter demand. Presently, the demand for prostitution in Ireland in indoor settings is completely undisturbed because men who buy sex act with impunity. In fact, if there was not for the massive national campaign against prostitution and the present consultation launched by the Minister for Justice and Equality, sex buyers would have continued without having the public attention focused down on them and their role in the mass scale of sex abuse.

Apart from the men who buy sex, direct beneficiaries of the present situation are also the prostitution advertisers who make massive profits in Ireland and the pimps for as long as they remain undetected and unprosecuted despite the enormous efforts by the State.

We disagree that people selling sex are beneficiaries from their participation in the prostitution business, which in their own words is ‘abnormal’. None of the interviewed women who were currently engaged in prostitution viewed it as an occupation for life but rather as a temporary activity that requires coping and survival strategies. Women had other plans, and were waiting for the opportunity to exit as soon as an opportunity presents. Migrant women report having significant debts, and a feeling of being ‘trapped’ in the industry. All women have daily anxieties in relation to their physical health and safety. Others already suffer lifelong consequences such as infertility, hepatitis and sexually transmitted deceases. International research confirms that given the opportunity prostituted people would quit on the spot.

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5 Turn Off the Red Light: End Prostitution and Sex Trafficking in Ireland, [www.turnofftheredlight.ie](http://www.turnofftheredlight.ie)
7 "Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant women in Ireland” (Kelleher et al 2009)
exchange money for sex, we disregard not just the prevailing opinion among people who want out of prostitution, but also we play on the margins of simple but profound values in our society, such as to pursue and enjoy sexual relationships that are based on affection, the right to be unharmed, the right of women to feel equal, the right of men to protect women and children, the pursuit of gender equality, the right of communities to know that no perversions, violence and human rights abuses are taking place in their midst.

**Question 3: How should future legislation address the variety of circumstances in which prostitution occurs?**

Noting that solicitation on the street is already outlawed, we have to address the different provisions that exists for indoor prostitution and in particular the practical impunity for buyers of sex indoors, which have contributes strongly to its present status of proliferation.

The ICI recommends that men purchasing or attempting to purchase people for sex are guilty of an offence, and should be fined for the unacceptable choice they have made, by using another person for sexual gratification.

Our experience shows that people selling sex, especially those selling sex indoors could be held liable for a variety of offences. At the same time, we have witnessed recently the novel approach adopted by An Garda Síochána during the latest all-Ireland police operation, where people selling sex were viewed primarily as victims and possibly witnesses due to their vulnerable and often controlled situation.

**Question 4. In what way should the criminal law on prostitution address the rights of communities and society in general?**

Laws have declarative and normative as well as punitive aspects. This is why the outcome of the present consultation should centre on what type of society we can and endeavour to be.

On the basis of the available facts, we can no longer tolerate prostitution and accept it as a harmless transaction between consenting adults. Today, we see it for what it is, a paid act allowing men with money to have access to young people’s bodies for 30mins or a full hour, to the detrimental consequences of the young people involved. Furthermore, we do not believe in policies that tolerate prostitution as an available ‘occupation’ for young migrants who cannot access any type of employment due to the present economic reality in Ireland (and in Europe) and the entailing regulations.

We believe the law has to acknowledge the facts and to consider the phenomenon of prostitution for what it is – an outdated harmful culture that no one physiologically needs and no one will miss, like slavery, the disenfranchised position of women or the slapping of children or absolute power.

The law has the potential to shape opinions and to educate younger generations. One of the most important outcomes of the relevant law in Sweden, which is consistently and widely supported, is the fact that young Swedish people do not approve of paid sex. This is a value that many young Irish people have, simply because they are raised with it, and we believe that an Irish law has to embrace and nurture this value rather than question it.
**Question 5. What type of measures, if any, can be taken to address the use of modern technologies to facilitate prostitution?**

This question is a reminder that the present spread of prostitution in Ireland has not been envisaged and needs addressing.

The promotion and advertising of prostitution is outlawed\(^9\) and yet there are a number of companies that daily advertise prostitution to Irish customers on Irish soil through websites that are registered in a different jurisdiction, primarily in the UK. In direct breach of the prohibition, these advertisers are promoting Irish postal addresses and Irish telephone numbers to make commercial prostitution possible and accessible. Abusing an existing legal loophole, these companies mount enormous profits\(^10\).

There are various approaches to be adopted that could for example focus on work with internet providers who through their service to customers in Ireland indirectly promote prostitution by allowing the mentioned companies to advertise prostitution in the State. In a similar way, the Irish mobile networks could be engaged in closing down accounts and SIM cards used for the promotion of prostitution by the same companies exploiting the loophole.

The enclosed Appendix No5 “Opinion on mobile phones and websites used for the promotion of prostitution in Ireland by David Dodd B.L., 2011” contains possible court procedures that would allow the speedy closing of internet websites and withdrawing of SIM cards belonging to companies and agents who are in breach of the Irish law of 1994.

We want to stress out that while useful, any efforts to undermine prostitution solely through its advertising, and without any legal steps to make the prostitution acts practically impossible, would be a temporary and possibly ineffective decision. Furthermore, it will not bring the long overdue added value of a clear view on the outdated prostitution practices in order to benefit the communities, the society, and the vulnerable young people involved. In conclusion, we see the measures under this item as important but auxiliary.

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**SWEDISH MODEL QUESTIONS**

(from Discussion Document, Chapter 5, page 38-40)

**Question 1. Should the criminal law have a role, at all, in regulating the purchase (or sale) of sexual services where the transaction is conducted, in private, between consenting adults?**

The Immigrant Council of Ireland (ICI) submits that the situation outlined in the phrasing of the question, whereby adults in the absence of any degree of control or duress or lack of alternatives, discreetly agree to exchange sex for money, occurs extremely seldom. The ICI

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\(^9\) Criminal Justice (Public order) Act 1994

believes that a change in criminal law is an adequate response to the behaviour involving the purchase of strangers, majority of whom with significant vulnerabilities, for sexual pleasures.

Experience shows that the tender age or the obvious vulnerability of a person alone cannot act as deterrents for the buyers of sex\textsuperscript{11} and a more comprehensive approach is needed in tackling the demand for paid sex. The estimated average age of entry into prostitution is 14 years\textsuperscript{12}. The ICI lawcentre represents clients who have been prostituted and purchased for sex in Ireland as minors. There is ample evidence about young teenagers in prostitution in Ireland and in 2009, the National Advisory Committee on Drugs published a report where “a significant minority” of the sample of 35 interviewed drug using people involved in prostitution have started as minors\textsuperscript{13}. In the same year, a report published by the Immigrant Council of Ireland exploring the sex trafficking of migrant women revealed that 11 of the 102 studied cases involved girls younger than 18 years\textsuperscript{14}. More recently, the Irish Government annual reports on human trafficking stated that in 2010 out of the 56 victims of sex trafficking 15 were minors, and 8 out of 37 in 2011 respectively\textsuperscript{15}. The inevitable conclusion is that men who purchase sex, pay to have sex with minors among other prostituted individuals.

It also has to be acknowledged that the buyers of sex also purchase women who are trafficked, coerced and pimped. International research from 2003 and 2009\textsuperscript{16} expose the fact that men are aware of the coerced and trafficked status of women, which does not discourage them from buying these same individuals for sex. Criminal record, including the risk of disclosure has been identified by the buyers themselves as a reliable deterrent of their actions\textsuperscript{17}.

Penalties are the most efficient proven approach to deter men who contemplate buying sex. Sex buyers act out of their free will, unforced by economic circumstances or other people, unlike the women that are for sale. Therefore buyers have the option not purchase and not to commit the offence, if such law is introduced. In their freedom to decide and choose, buyers of sex differ from the sellers, who are often penalized for their involvement and this penalisation constitutes a secondary victimization for them.

**Question 2. What social policy objective(s) would support such intervention by the criminal law.**

The law should aim to predetermine a context where entrapment and exploitation of vulnerable people, including young people, does not occur and where organised criminality does not have grounds to flourish at the expense of the exploitation. We believe that the reduction of demand for paid sex leads to decreased supply of prostituted people, among them those who have been forced, controlled, trafficked, those who are minors or have other vulnerabilities. The reduction of demand further impacts on organised crime, as evident in the evaluation of the Swedish law,

\textsuperscript{11} "The harsh realities of ‘being raped for a living’", Irish Examiner Wednesday, February 15, 2012

\textsuperscript{12} US Department of Justice “Child Exploitation and Obscenity” accessed CEOS

\textsuperscript{13} Drug use, Sex Work and the Risk environment in Dublin”, Whitaker&Cox, 2009

\textsuperscript{14} "Globalisation sex Trafficking and Prostitution and Experiences of migrant Women in Ireland”, Kelleher et al, 2009

\textsuperscript{15} Annual statistical reports on trafficking in human being by the Anti Human Trafficking Unit at the Dept of Justice and Equality http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/whatsbeingdone-datastrategy-en

\textsuperscript{16} “Men Who Buy Sex: Who They Buy and What They Know”, Farley, Bindel, Golding 2009

\textsuperscript{17} Farley 2011, McLeod 2008
where intercepted messages between criminal organisers indicate the State’s ‘market’ is not attractive for operations. Policy tackling demand leads to a shrunken sex trade industry and lesser opportunities for profit for criminal elements who accompany the prostitution business everywhere. The clear contrast between the number of people involved in prostitution in Sweden (estimated 500-600) and the Netherlands (25,000 people in the legal sector alone) illustrate the different social objectives achieved by both countries.

Even more important, is the potential of this policy to establish a new norm in our society, which deems prostitution to be unnecessary and an unacceptable social phenomenon. Such an approach underscores a social context, within which younger people could be raised with intolerance towards the purchase of another person’s body for gratification.

The ICI believes that in pursuing reduction of demand through penalties for buyers, the State must also ensure that prostituted people are not criminalised and re-victimised. They should be supported to exit prostitution if this is what they want.

**Question 3. Would such policy be clearly justifiable on objective grounds? If yes, what are those grounds?**

The policy recommended by the ICI takes account of the reality of prostitution and therefore is objective. We refute that prostitution is inevitable. It is a common cliché to refer to prostitution as ‘the oldest profession in the world’, however this does not address the physical, mental and emotional suffering that is endured by women in prostitution.

Like many other social phenomenon that have been condemned as antisocial, unacceptable and incompatible with human rights and human dignity, prostitution is destined to disappear. The Irish State is now finally, seriously considering this prospect. The legislators succeeded in disabling prostitution through a combination of pieces of law in the 1990s without actually taking a stance against it. However, very soon globalisation and new technologies re-established prostitution as a widely spread commercial semi-legal industry primarily based indoors.

Prostitution is not a physiological necessity and should not be equated with sex. The purchase of sexual services adds a power/servitude dimension to the sexual relationship, whereby knowledge of the partner and affection become irrelevant. Very few men purchase sex, which is an indication that paid sex is not linked with men’s sexuality. On the other hand, many of the men who do purchase sex are married men and men in relationships, which shows that prostitution is not a prerogative for lonely men who ‘need’ to purchase sex. In the vast majority of cases, people who are involved in selling sex, do not do this out of sexual drive but out of dire economic necessity or are under duress. This in itself does not give us objective reasons to tolerate prostitution.

**Question 4. What benefit might ensue from a ban on purchasing sexual services?**

We wish to emphasise that we do not perceive prostitution as a ‘service’. Sex with another human being cannot be reduced to a service. The act of ‘purchase’ in prostitution is an act of

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18 English translation of the Swedish Evaluation published by the Swedish Institute in November 2010
buying access to, and control over, another person’s body for certain durations of time and for a certain amount of money\textsuperscript{19}. The Swedish State, where the ban on the purchase is in operation for the longest time, clearly demonstrates the benefits associated with this ban\textsuperscript{20}. Making the purchasing of another person for sexual gratification illegal, will reduce demand for prostitution and the supply of prostituted people respectively. It will reduce a dangerous market, where children and adults are harmed and exploited and some times destroyed. A reduced sex market is less attractive to criminal gangs and various organisers that inevitably accompany prostitution. The fact that a tolerated and vast sex market attracts criminality is evident in the fact that 50\% of the permit-required businesses on the notorious Wallen district in Amsterdam have one or more managers with a criminal record\textsuperscript{21}. The ultimate beneficiaries of the ban will be the communities and the society as a whole, where harmful degrading practices, such as prostitution, are on the decrease.

The ban on paid sex is the right message to give to younger generations and brings to the fore well established values of Irish society, such as the importance of consensual sex where money, power and anonymity are unnecessary.

**Question 5. Would it deter demand for sexual services?**

We would like to clarify that the demand for ‘sexual services’ is the demand to paid access to a stranger’s body, which the buyer uses for sexual gratification, within a set duration of time, usually 30mins or 1 hour.

‘The Price List’; Not Natasha Photographic Exhibition by Artist Dana Popa

We are convinced that a ban on the purchase of sex will act as a deterrent to the small minority of men seeking to purchase sex. Penalties and the risk of public exposure have been identified


\textsuperscript{21} Gemeente Amsterdam, Ministerie van Veiligheid en Justitie; Projectgroep Emergo (2011). Emergo – De gezamenlijke aanpak van de zware (georganiseerde) misdaad in het hart van Amsterdam. Achtergronden, ontwikkelingen, perspectieven. Amsterdam: Boom Juridische Uitgevers
as a major deterrent by the buyers of sex themselves. Sweden introduced this ban some 13 years ago, and estimates that the number of men purchasing sex had dropped from 13.6% before the ban to 7.8%.

We note that the Consultation document refers on several occasions to a relatively old report on Sweden from 2004. The research was carried out in 2003, only 3 years after law. The context has since changed and many of the issues raised in relation to law enforcement have been dealt with, in particular those focusing on the indoor sex industry and the claims that it had gone underground. The police are engaged in extensive operations in relation to the indoor market, including surveillance, phone tapping, monitoring of sites, mobiles, advertisements etc.

Many years of experience have shown that the vulnerable appearance of an individual or the tender age or even the crying and the distress of the prostituted person have not prevented buyers of sex from carrying out sexual acts with such people. Reports from around the world repeatedly show that buyers are aware of the controlled/coerced status of the women they buy. In the UK 55% 100 buyers interviewed said the majority of women are coerced/trafficked, in the US the number of buyers sharing this view rises to 60% and to 63% in Scotland. Other studies also show that men buying sex are well aware of the vulnerable status of women but this does not affect their decision to buy sex. These findings show that in our efforts to deter demand we cannot rely on the buyer’s consciousness but on penalties and the risk of exposure.

**Question 6. Would a ban deter human trafficking?**

In the last decade, all international treaties relevant to human trafficking contain clauses for the reduction of demand in recognition of the links existing between the general prostitution trade and supply of trafficked people. While the standard on how States do this are not prescriptive, every country has the obligation and the right to decide how to deter demand.

Countries that believe that prostitution can be controlled and regulated have opted for the minimum standard of measures to discourage demand, expressed in penalties for buyers who knowingly purchase victims of human trafficking. This is based on the presumption that the State can regulate the sex market so that it only supplies non-trafficked adult prostitutes, and that the buyers are competent to determine who is a victim of trafficking, which even trained professionals find extremely hard.

This approach appears to be a failure in such countries, and presently the Netherlands, which has one of the largest numbers of sex trafficked victims is considering additional immigration

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22 "Men Who Buy Sex: Who they buy and what they know", Farley, Bindel & Golding 2009
23 Briefing: Swedish Law and Policies on Prostitution and Trafficking in Human Beings, Ekberg 2012
regulations and raising the minimum age of people in prostitution to 21 as a recognition of the failure to ensure children and trafficked people are not purchased by men.

Other countries have taken a different and more profound approach on prevention of sex trafficking and child trafficking by outlawing the purchase of sex in an unconditional manner. Instead of relying on the buyer to find out if the person is trafficked or a minor, or relying on the pimp to supply only prostitutes with legally permissible profile, the State has deemed the act of the purchase of another human being for sexual gratification illegal, thus ensuring that demand is tackled square. This is the case in Norway, who in recent years adopted a ban on the purchase of sex out of considerations linked with human trafficking, among other concerns.

Presently, the demand for prostitution in Ireland in indoor settings is completely undisturbed because men who buy sex act with impunity. It is worth noting that we have penalties for those who knowingly purchase trafficked people, which were adopted in 2008 and lack strict liability out of considerations linked to the C.C. vs Ireland Court ruling. How well founded these considerations were could be debated; we have not obtained any convictions against buyers of sex trafficking victims since the adoption of the law, and the relevant article of the Criminal Law Human Trafficking Act 2008 does not appear to be fulfilling its preventative objective in relation to human trafficking and the exploitation of trafficked people.

**Question 7. Might the ban on the purchase of sexual services drive prostitution further underground and make life more dangerous for sex workers?**

The theory that prostitution goes underground in countries that have banned the purchase of sex is unfounded. Prostitution is clandestine and always underground. A large portion of the industry remains unlicensed and unregulated in Australia and the Netherlands where no such ban is in operation, therefore still qualifying as ‘underground’.

In Ireland for example, prostitution is mostly visible to those who are interested – buyers, pimps, organised gangs, researchers and authorities, and sometimes communities. Occasional and sporadic media articles and investigations bring it out in the open for the wider public, and the rest of the time it fits the common understanding of underground, yet we do not have a ban on the purchase of sex in operation.

Countries that are attempting to regulate and normalise prostitution and thus bring it in the open, observe the development of big illegal sectors alongside the legal sectors. Last year, Norwegian and Swedish police detectives who participated in a roundtable organised by the Immigrant Council of Ireland and Ruhama, expressed their views that prostitution is a business reliant on clients. If the sex trade is so well hidden that no clients can access it, there will be no such business. Assertions that prostitution will go underground, where clients can still find it but where the police cannot, make no sense.

In relation to the second part of the question that refers to the safety of prostituted people in the underground sex trade, we would submit that people in prostitution are at risk of harm,

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27 See Annex : Strict Liability by Dr Alan Brady
regardless of the legal framework. Again, if we take for example Ireland, the prostituted women interviewed for the 2009 *Globalisation, Sex Trafficking and Prostitution* study reported high level of anxiety in relation to their safety, which remains their paramount concern at all times, and this is in the absence of the named ban. The same considerations for safety prevail in the safety guidelines for street prostitution issued by Chrysalis. The guidelines for the ‘sex workers’ in New South Wales, Australia and the panic buttons installed in the legal brothels, are a confirmation that no matter what the legal regime is, prostitution remains inherently dangerous and abnormal.

Legitimate concern for the health and safety of women and the desire to make prostitution a voluntary regulated occupation led many policy makers to argue against the criminalisation of the sex industry. However, evidence from other jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that those aspirations were ill founded. In Germany an extensive evaluation in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance, the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses.

Similarly in the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any more safety for women but rather a massive legal and illegal trade in migrant girls and women; The same evaluation concludes that combating the exploitation of involuntary prostitution is ‘virtually impossible’ to ascertain and also that pimping is widespread, while the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased. A review of prostitution regimes in nine countries finds that it is not feasible to treat "sex work" like any other occupation, integrate it into employment law or create the conditions in which women's health and safety can be protected.

Research consistently indicates that there is no safe location for prostitution. Rape, physical violence, forced sex without condoms, abusive and dangerous sexual practices are constant risks whether it is on the streets or in indoor locations.

We further point out that the Swedish model is not limited to the ban of the purchase of sex but has another equally important component. It establishes full decriminalisation for those who sell sex, which provides the ultimate level of assurance on the part of the State in the recognition of their vulnerable situation. In contrast, it is worth noting that in the Netherlands, the most

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30 New South Wales Work Cover ‘Health and Safety Guidelines for Brothels’  
32 Daalder, A.L. (2007). Prostitution in the Netherlands since the lifting of the brothel ban. The Research and Documentation Centre (WODC), the Hague, the Netherlands  
common fine issued during inspection of legal brothels is for presence of migrants, who lack appropriate authorization.

The only way to eliminate harm in prostitution is by working to eliminate prostitution itself.

**Question 8. In view of the constitutional requirement to hold all citizens equal before the law, could the purchase of sexual services be criminalized without also criminalising the sale of such services? Would the law deny the purchasers of sex basic rights to a fair trial?**

As a response to this question, the ICI refers to Annex No1 “An analysis on the potential for implementation of provisions criminalising the purchase of sexual services in Ireland by Aileen Donnely SC, Immigrant Council of Ireland 2010”, and in particular to the paragraphs quoted below:

“Article 40.1 of the Constitution provides that “all citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.” At initial consideration it will be noticed that the arguments for discrimination could not be based upon direct gender discrimination as any new legislation would be gender neutral on its face i.e. any purchaser, whether male or female would be committing an offence by purchasing any sexual service from a person, male or female. A claim of indirect gender discrimination on the basis that it criminalises more men than women may not seem to have much merit on its own as the simple reason for that is that more men than women purchase sexual services and that the rationale is not to discriminate but to protect the vulnerable. This argument will be addressed further below. Perhaps a stronger argument is that the there is a breach of the right to equality when one party to a transaction is seen as a criminal while the other is not. However, does that argument really take into account that one party is seen as victim of the other’s criminal act? These are issues that require consideration.

The role of the law in nominating one party as a perpetrator and another as a victim has been recognised for some time. Prior to the declaration of constitutional inconsistency in 2005 section 1 of the Criminal Law (Amendment) Act 1935 only a male could be prosecuted for the offence of unlawful carnal knowledge with an underage girl i.e. even if both parties consented only the male was liable regardless of the age of the male. This section was declared not to have been carried over in the 1937 Constitution by the Supreme Court on the basis that it did not provide for a defence of honest albeit mistaken belief as to age. The question of constitutionality due to gender discrimination was not considered.

The offence of unlawful carnal knowledge was re-enacted and expanded by the Criminal Law (Sexual Offences) Act 2006 in which it is an offence for any person to engage in a sexual act with a child who is under the age of 17 years. The sexual act can be sexual intercourse or

In relation to sexual intercourse the Act goes on to say that a female child shall not be guilty of an offence by reason only of her engaging in an act of sexual intercourse. This was challenged as an unconstitutional piece of gender discrimination by a boy who was charged, inter alia, with an offence of engaging in sexual intercourse with a girl under the age of 17 years in the case of M.D (A Minor) –v- Ireland, Attorney General and Director of Public Prosecutions, High Court, 26th March 2010.

In rejecting the Plaintiff’s case Ms. Justice Dunne’s analysis was as follows: that as there was different treatment for those children under the age of 17 years who engaged in sexual intercourse it had to be viewed as discriminatory on grounds of gender. She held that it was then necessary to consider whether, given the lack of equality of treatment the State could rely on the provisions of Article 40.1 of the Constitution to show that “the differentiation is legitimated by reasons of being founded on difference of capacity, whether physical or moral, or difference of social function of men and women in a manner which is not invidious, arbitrary or capricious.” She looked at the objective of the Act as a whole, which was to protect children, boys and girls from sexual abuse. She noted the Act dealt with a complex and wide range of sexual activities, circumstances and levels of culpability with different sentencing regime for some offenders dependent on age. It was only in relation to acts of sexual intercourse that there was immunity for girls. It is an immunity in the one area of sexual activity that can result in pregnancy which of course is only a risk borne by girls. She noted that the adverse consequences that flow from under age sexual activity fall to a greater extent on girls than boys. She said that far from being a good old fashioned example of discrimination against young boys the Act provided a limited immunity on girls in the one area of sexual activity that risks a pregnancy. She held “[s]ociety is entitled to deter such activity and to place the burden of criminal sanction on those who bear the least adverse consequence of such activity. The Act goes no further than is necessary to achieve this object.” She held that this was a rational basis for the difference in treatment and therefore the discrimination was seen to be legitimate by reason of being founded upon difference of capacity, physical or moral, or difference of social function of men and women which is not invidious, arbitrary or capricious. “

**Question 9. Would immunity from prosecution for sellers expose the purchasers of sex to a risk of blackmail?**

The question implies that people who sell sex are prone to the crime of blackmail, which we believe is far fetched and unjust. If blackmailing occurs at all, it is equally possible that it is happening now in Ireland, and not just instigated by sellers but also it can happen at the whim of pimps, brothel owners, bouncers and other categories of people who are involved in the current prostitution business.

Men who purchase sex are exposed to blackmail and similar threats linked to disclosure not because of any existing or future law offences. The susceptibility to blackmail is likely generated by these men’s own preference to lead a double life expressed in the secretive purchase of
prostituted people on the one hand and the reputable life amongst family/work/community on the other.

If such a danger of blackmailing at all exists, it could act as an additional deterrent for people who buy sex, which is in line with the objective of the recommended approach. If the question implies that the sellers could threaten to report buyers to the police authorities, this again is another risk those who purchase sex have to contemplate.

The ICI emphasises that we recommend low level of penalties, involving a fine and a notification of fine, therefore the question about blackmailing is primarily linked to the risk of disclosure to families or the loss of reputation or social capital as opposed to risk of severe penalty\textsuperscript{36}. All said, we deplore the crime of blackmailing, and we commend any efficient legal and other measures against it.

**Question 10. Would a Swedish style ban impact on the rights and interests of persons who are voluntary involved in selling sexual services and, if yes, how can those rights be protected?**

We recognize the situation of vulnerability of people selling sex and we recommend that they are not criminalized or penalized. We accept that there are isolated cases where the decision to sell sex is taken consciously and without pressure from other people. However, our own experience, substantiated by recent reports unequivocally shows that at the minimum a traumatic or unusual personal circumstance has compelled the person to do so\textsuperscript{37}. Even in this cases where ‘own will’ to an extent is exercised, we believe the choice to sell sex has not been taken lightly, and the degree of freedom to decide and the availability of alternatives have been limited. The reality is that we live in societies, where we do not have complete choice to decide what is acceptable. It is the society that regulates what constitutes an acceptable choice and what does not. Life around us is full of such examples: we do not give people the choice to sell their organs, or to work below the minimum wage, and to sell drugs to other people as means of living. What has been a guiding consideration in our decision to work towards eradicating prostitution, has been the poor background of the people selling sex, the severity of cases of sexual exploitation of children, young people and human trafficking and mostly the opinion of the vast majority of people in prostitution who wish to exit. Asked about it, nine out of ten women respond that they want to exit prostitution\textsuperscript{38}.

**Question 11. Given the stigma associated with convictions for solicitation, could a Swedish style ban have undesirable social consequences for persons convicted of an offence (which would be minor) of purchasing sexual services?**

The stigma in the cases mentioned in the question above, does not stem from the existence of the ‘offence’ itself but from the nature of the act of solicitation for prostitution. We however believe that if a buyer is determined to solicit and to purchase for sexual pleasures another

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\textsuperscript{36} See annex two on Penalties for buyers by Dr Alan Brady

\textsuperscript{37} “A Study of How Women Exit Prostitution.” (publication pending) London South Bank University, Bindel et al

\textsuperscript{38} “Paying the Price”, UK Home Office 2004
person, he then must be very little concerned with embarrassment and stigma. Whether or not a person experiences stigma in relation to breaking a law per se is an altogether different matter.

In Ireland, there is already a law against solicitation in the street, which indicates that any considerations in relation to stigma or reputation damage for the perpetrator are secondary when the law aims to regulate behaviour.

The proposed offence of purchasing sex applies to all situations, and bearing in mind that the buyer has no knowledge of what the circumstances of the ‘seller’ are, it is reasonable to presume that this potential offender is willing to risk to engage with any type of seller, including under 18, trafficked, coerced or controlled. Therefore the regulation of this behaviour must supersede considerations linked with the stigmatization of the perpetrator.

**Question 12. Would it have unacceptable knock-on effects on innocent parties, for example, the spouses and children of defendants?**

The concerns expressed in the question have been very likely extensively debated and put aside when the laws banning the solicitation on the street have been introduced. Whether the buyer of sex purchases on the street or indoors, his behaviour has without any doubt detrimental effect on his family and children.

It is irrelevant, if the buyer was caught committing the solicitation or if he had managed to remain undetected, because with his actions he had already put his family’s feelings and reputation at risk. We surely deplore Tartuffe’s logic from the eponymous comedy by Moliere “To create a public scandal is what’s wicked; to sin in private is not a sin.”

**Question 13. Would criminalizing the purchase of sexual services discourage buyers from reporting suspicions that a sex worker has been trafficked or otherwise coerced into prostitution?**

It is unrealistic to presume that men determined to purchase sex conduct interviews with the individuals they have purchased for a set amount of time, in order to ascertain the willingness, the age and the circumstances of the prostituted person. And while there is evidence that buyers of sex have become occasionally concerned, and have informed or collaborated with police investigations, it is also true that these are rare exceptions, and in the vast majority of cases buyers of sex are determined to pursue the purpose of their act, which is to obtain sexual pleasure from another person for payment.

A report based on interviews with buyers of sex reveals that even though they had on occasion suspected that a woman is trafficked, this has not deterred them from using that same person for sexual gratification, and all of the referrals to the police have happened after they have obtained their ‘value’ for the money, as the experiences of the service providers Eaves Housing in the UK indicate. Relying purposefully on intelligence from individuals who in effect are participating in the exploitation of the trafficked or coerced person is a questionable approach to say the least. We, however, accept that in isolated cases, it would be preferable to offer prosecutorial immunity to a buyer in exceptional circumstances where his remorse and value of
evidence could bring down a criminal gang exploiting a number of victims, and for this reasons we have explored this option.39

It has been the experience of the Swedish and the Norwegian organised crime unit that since the ban, men who buy sex (in other word potential offenders) are more cooperative with the authorities, and they explain this willingness to cooperate with the legal framework in their countries.

We believe that these rare cases where clients provide important evidence are not prevalent enough to cause a deviation from the understanding of the role buyers play in the dehumanization and destruction of vulnerable prostituted individuals, and we remain aware that the businesses traffickers, pimps and other criminal organizers conduct rely mainly on the demand from buyers of sex.

**Question 14. Would there be difficulties proving an offence of purchasing sexual service?**

We acknowledge that there are difficulties in proving offences, and we believe that the declarative and normative component of the offence of the purchase of sex from a person would be as important as the punitive aspect.

Last year, at a roundtable with police forces from Norway, Sweden, Northern Ireland and An Garda Síochána, the officers shared some practical advice around the implementation of the law in the Scandinavian countries, and we are sure that more useful exchanges would be organized, should an offence be introduced in the State. At no point however during that particular session, as well as in the substantial evaluation of the Swedish legislation conducted by a High Court Judge40, was the proving of the offence of the purchase of sex presented or referred to as an insurmountable difficulty.

**Question 15. Could a ban on the purchase of sexual service be comprehensively and consistently enforced by the Garda Síochána?**

An Garda Síochána has long traditions in strategic and effective implementation of legislation. We believe that the ban on the purchase of sex compliments the offence of solicitation on the street with respect to buyers, and makes the approach towards those who search to purchase sex in Ireland consistent. In this relation, we would like to commend the significant step forward and the groundbreaking statement made by An Garda Síochána with ‘Operation Kerb’ in Dublin and the operation ‘Ffreewheel’ in Limerick, as well as the more recent joint action between An Garda Síochána and the PSNI in July 2012. The approach taken in all these massive operations has been informed by the understanding that the prostituted people have not taken the decision to sell sex lightly or in other cases have been forced by other people or compelled

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39 See Annex – Legal Opinion, PILA
by circumstances. At the same time, operations Kerb and Freewheel sent a strong message that the actions of the men soliciting people for the purpose to buy them for sex are unacceptable and punishable. The Garda operations confirm the need for differential approaches towards those who purchase sex and those who sell, which has been informally recognised in Ireland by the police professionals who see the different social standing and freedoms associated with both groups and realise that penalties for both would only compound the vulnerability of the prostituted person lead to re-victimisation.

**Question 16. Were it possible, would such enforcement be an efficient and cost-effective use of scarce Garda resources?**

We believe that the ban on the purchase of sex will not require a significant additional skill set, resources and approaches to what is presently used in relation to tackling prostitution by An Garda Síochána. On the contrary, the proposed approach has the potential to make the response to prostitution less ambiguous and complex, and more straightforward and efficient as a result. In longer terms the proposed approach has the potential to free police resources that are presently directed into prostitution and trafficking for prostitution.

The present legislation is underlined by elaborate priorities and values, and it establishes a complex legal framework for the law enforcement to operate in. For example: soliciting on the street is considered wrong but soliciting indoors is acceptable, controlling a person is wrong but buying a controlled person for sex is not, buying of trafficked person is acceptable unless the customer admits to being aware that the person is trafficked in which case it is unacceptable.

What the Immigrant Council of Ireland recommends is a legal approach based on the reality of prostitution that has been extensively tested in one particular country and increasingly opted for by other countries in Europe. Such a law would underline the role of the police force as justifiable and respected one, and one that will enjoy the full-hearted support of the overwhelming majority of the Irish society.

**Question 17. Would enforcement of a ban on the purchase of sexual services, divert the Gardai from operations targeting serious and organised crime, including human trafficking and organised prostitution.**

We believe that the proposed approach would not divert but rather complement and bring consistency to the efforts in tackling of serious and organized crime, human trafficking and organized prostitution. One of the most significant outcomes of the Swedish legislation banning the purchase of sex has been the transformation of the prostitution market that ceases to be profitable and attractive for criminal gangs, according to intercepted messages. The UN Protocol from Palermo, which complements the Convention on the Transnational Organised

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42 Norway and Iceland introduced similar ban, and presently the French Parliament considers such a bill after adopting in 2011 a declaration that prostitution is socially unacceptable. The UK adopted a version of the Swedish ban that criminalises purchase of coerced people, where the lack of knowledge of the buyer is immaterial.
Crime, is very clear on the link between organized crime on the one hand, including human trafficking and the demand for prostitution on the other. Article 9 of the said Protocol provides that States “shall adopt or strengthen legislative or other measures, such as educational, social or cultural… to discourage demand that fosters all forms of exploitation or persons, especially women and children, that leads to human trafficking”. Organised prostitution and sex trafficking cannot be addressed in isolation from the prostitution market. Respectively, every effort to reduce and disable this market will benefit the fight against exploitation of people through prostitution. This is why we believe, the measures geared towards the reduction of prostitution through demand are an integral part of the fight against organized and other crime associated with prostitution, including human trafficking.

18. How will this legislative approach:

a) Reduce the numbers engaged in prostitution?

The approach reduces the numbers of people engaged in prostitution in absolute terms, and this is evident in Sweden where the ban is in operation for the longest period of time. Compared to other countries, in particular in the neighbouring countries such as the Netherlands and Denmark, the number of women on the streets, the advertisements for indoor prostitution are incomparable.

b) Reduce the demand for prostitution?

The demand for prostitution is expressed in the number of men who purchase sex. The number of men purchasing sex has dropped significantly – from 13.6% before the ban to 7.8%.

c) Reduce abuse and exploitation of prostitutes?

Prostituted people have been decriminalised in Sweden, and therefore are free to seek help and turn to the police at any time. It is evident from the 10-Year evaluation report that women in prostitution are assured that the State is siding with them in any situation and feel at liberty to seek help.

d) Help prostitutes to enforce their rights, including their rights to equality and access to health?

The Swedish approach is considered best practice for policy aimed at preventing and ending the harm and danger for people in prostitution. Vulnerable people selling sex are decriminalized and supported to exit, and all parties involved in their harming and exploitation are held responsible – pimps, traffickers, buyers. The approach in question endorses the prostituted people’s right to see an end to their sexual exploitation, which is in contrast to all other existing regulations that are setting the modest goal to reduce the harm and danger amid all the evidence of how dangerous prostitution is. “I think we need to really examine, as a people, what we understand about the concepts of choice and force, and I think that until we do, we will never be able to decipher that murky hinterland with which the vast majority of prostituted women are

44 Briefing: Swedish Law and Policies on Prostitution and Trafficking in Human Beings, Ekberg 2012
intimately familiar; that place that bridges the gap between wanting to and having to; that place where so many women must occupy before they make a decision that is not a decision, a choice that is not a choice. It is a place that is imbued with a certain heaviness; the weight of an oppressive and secret force.\(^{45}\)

**e) Avoid the stigmatization of and discrimination against prostitutes?**

Acting out of concerns about the harm in prostitution, some countries have opted to institutionalize the sexual abuse in prostitution and attribute to it the status of an ‘occupation’. It is indicative of the failure of the approach, that this idea has not been taken on by the prostituted people themselves, whose stigma and social standing has not improved by branding them with work related terms or by dressing up the sexual acts and perversions in prostitution in occupational rhetoric.\(^{46}\)

**f) Address issues regarding prostitution and crime?**

Prostitution always attracts crime. Tolerated prostitution attracts more crime. In countries that have made prostitution legal, the pimps become ‘agents’, the brothel runners become ‘businessmen’, theatres turn into ‘sex theatres’ and cinemas into ‘sex cinemas’. When a pimp breaks the law the offence becomes a tax compliance offence. There is ample evidence that legal prostitution attracts special types of ‘business’ people. Half of the permit-required businesses in the Wallen district of Amsterdam have one or more managers with criminal record.\(^{47}\) Last year we heard of the conviction of the Romanian criminal boss Florin Nicolae head of the Ghenosu gang, who was controlling women in prostitution in Ireland parading them as independent high class escorts. He reportedly liked the prostitution organization in Ireland so much that he planning to replicate the ‘Irish model’ in Italy, which an imprisonment in Romania prevented him from doing\(^{48}\). Crime always accompanies prostitution, and the recent joint operation between An GS and PSNI was launched precisely for these reasons and focused on securing convictions against individuals involved in “organising prostitution, brothel keeping and associated offences including money laundering”.\(^{49}\) One of the biggest gains of the Swedish approach has been the deterrent of criminal gangs, who find the prostitution clients timid because of the purchase ban and the sex market less profitable. The 10-Year evaluation refers to intercepted conversations between criminals who make comments to that effect, which clearly is a great relief to the law enforcement.

**g) Address concerns regarding public health and HIV transmission?**

**Sarah forwarding when done – we will circulate to partners after template**

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\(^{48}\) [Caught in the vice grip](http://www.irishexaminer.com////features/caught-in-the-vice-grip-167790.html) By Conor Ryan, September 17, 2011

\(^{49}\) “Operation Quest”, An Garda Síochána press release, May 2012
h) Help to create an environment in which prostitutes feel comfortable about leaving prostitution?

This is one of the strongest aspects of this approach. It creates an environment where people are encouraged to exit prostitution simultaneously with measures to decrease the prostitution related business and rejection of prostitution in general. Although the process of addressing the vulnerability of people and the factors driving them into prostitution is a slow and complex task, it is reasonable to expect that this process could only be successful if the society maintains zero tolerance to the environment that fosters their exploitation. What are the incentives for people to leave prostitution, if it is easily available as a ‘business’ opportunity to them, while their economic necessities remain still prevalent? The answer cannot be other than ‘none’. Only if the society has stamped out the behaviour of their abusers together with the environment of abuse, can people in prostitution be seriously encouraged to embrace their right to receive help and to leave prostitution. This could happen in a society that can assure prostituted people that their hardships and needs are understood, and acted upon.

i) Avoid driving prostitution further under ground and making life more dangerous for sex workers?

Driving prostitution underground has been a preferred ‘argument’ of the prostitution defenders, ever since the Swedish law was implemented in 1999. The notion is that if we tolerate (or preferably legalise) prostitution it will be well visible and less dangerous, and vice versa, if we criminalise the buyers’ prostitution it will go underground and become unreachable. We refute this argument as unfounded and lacking logic. Last year, at the roundtable meeting between police detectives from Norway, NI, Sweden and Ireland this same argument was put to the Scandinavian guests, who answered to that effect: If prostitution hides becomes so hidden that neither police authorities nor the clients can find it, we will be satisfied that there is no such phenomenon. The truth is though different, and while prostitution is always clandestine, it is also visible because it is geared towards ‘clientele’. The high-ranking officers from the two Nordic countries reminded us that prostitution is a market and as such it depends on reaching clients. If prostitution goes underground to an extent that it stops reaching its clients, than that will mark the end of the sex industry. The second warning the opponents of the Swedish model issue, is the notion that this will increase the danger for people involved in prostitution. It is beyond dispute that prostitution is a dangerous place by all sides, by those who work to eliminate prostitution and by those who work to endorse it as work. One does not need to search hard for evidence, as the panic buttons in the ‘legal brothels’, and safety handbook for prostitutes in legalized business in Australia are a clear indication of the inherent danger and abnormality of the prostitution setting. It is also a reminder of what type of clients prostitutes are expected to embark on. The whole ‘ugly mug’ campaign is around protection from dangerous ‘customers’. The Irish National Advisory Committee’s report published 2009 reveals that the vast majority of

50 New South Wales Work Cover ‘Health and Safety Guidelines for Brothels’
the 35 interviewed people in prostitution “had been physically and/or sexually assaulted by a customer”.

People in prostitution are brutalized by pimps, traffickers and customers, and their main priority in prostitution is about remaining healthy and safe. The interviews conducted with 12 women currently involved in prostitution are the best testament: “It felt like a prison, no time for lunch and I was on call 24/7. I saw between five and seven men a day, with occasionally a day off – but never a Saturday or a Sunday. There was no choice about which men you saw and some men wanted sex without condoms. If you refused to have anal sex you had to pay a penalty or the ‘security’ men would beat you up”.

The Ipswich murders happened in the UK, which does not operate a ban on purchase of sex. In actual fact, these tragedies were a wakeup call for the UK Government to explore possible changes to their prostitution regulations and after studying the situation in Sweden and the Netherlands, the decision was to increase the penalties for buyers as opposed to legalise the sex trade, which is telling. All of the above listed examples are from countries that tolerate prostitution or have prostitution legalised, rather than having a ban on paid sex. Safety could be guaranteed for prostituted people only by facilitating them out of prostitution. Finally, a related argument is also put forward by the prostitution defenders claiming that the nice customers will be indeed deterred by the ban but that the aggressive customers will remain determined to purchase people for sex, and also that by imposing the ban countries are depriving prostitutes of choice in searching for nice customers. These are far fetched and desperate arguments, which cannot be taken seriously. If a man is determined to get paid sex nothing can stop him in countries where prostitution is tolerated/legalised and where the availability of women is unlimited. In fact the chances that he will brutalise more prostitutes is much greater because the likelihood is that he is not committing a crime in legal terms. Who is to stop him? If however, there is a ban in operation, this man will be seen as the offender that he actually is. The chances that he will be stopped are greater, and the prostituted people have equal or more rights to report him to the authorities because the roles are not blurred in countries operating the ban, where everybody is clear who the offender is in this scenario.

RECOMMENDATIOS:

Having regard to the facts surrounding prostitution, and our own first hand experiences in working with young migrant women subjected to prostitution, having also due regard to core values in the Irish society, we recommend the introduction of monetary penalties with postal notification for buyers of sex along with measures ensuring the non-criminalisation of prostituted people as well as support for them, including for the purposes to exit.

The ICI recommends that the following question finds a satisfactory and reassuring answer as part of the prostitution law review: How do we ensure that vulnerable migrant women in prostitution are protected and that children are not abused, while at the same time we tolerate a widely spread commercial sex business that has a potential to grow further?

For the full list of the ICI recommendations please refer to the ICI Summary Submission (p9).


“Globalisation sex Trafficking and Prostitution and Experiences of migrant Women in Ireland”, Kelleher et al, 2009

UK Policing and Crime Act, Chapter 14
An analysis on the potential for implementation of provisions criminalising the purchase of sexual services in Ireland

for: Immigrant Council of Ireland, May 2010
by: Aileen Donnelly SC

An analysis has been sought by the Immigrant Council of Ireland on the potential for implementation of provisions criminalising the purchase of sexual services in Ireland. A draft of a section for insertion into one of the existing Sexual Offences Acts is also sought. This analysis will consider in brief the present state of the law in Ireland, the policy choices underlying that position, the criminalisation of the purchase of sexual services by Sweden, the potential constitutional and/or human rights challenges that might be made to such a piece of legislation and will consider some possible draft sections for insertion into the criminal legislation. Finally there will be some observations on the recent UK legislation which creates an offence of strict (or absolute) liability for paying for sexual services from a person who has been exploited.

1. The present position

The current position in Ireland may primarily reflect a policy along the lines of “out of sight out of mind.” Thomas O’Malley in his book Sexual Offences: Law, Policy and Punishment, (1996, Round Hall, Sweet & Maxwell) teases this out a little when he states “[t]he law proceeds on the assumption that it would be pointless to proscribe prostitution per se but that measures must be put in place to deal with the nuisance and annoyance it may cause to members of the public.” The Criminal Law (Sexual Offences) Act 1993, which is the primary Act dealing with prostitution, does not make criminal the act of prostitution itself but criminalises public manifestations of it. A closer analysis of Irish laws relating to prostitution reveal a three pronged approach:

a) The criminalisation of the public nuisance aspect of prostitution
b) The criminalisation of the commercialisation of prostitution through laws on living on the earnings of prostitution and prohibitions on brothel keeping
c) The protection of those persons e.g. children and trafficked persons who are viewed as vulnerable and exploited by prostitution.

1.1 Public Nuisance

As regards the public nuisance aspect of prostitution, of relevance is section 7 of the Criminal Law (Sexual Offences) Act 1993 which criminalises soliciting or importuning for the purposes of prostitution in a street or public place. This offence criminalises the person who offers his/her services (or the services of another) as a prostitute and also the person who seeks out the services of another for prostitution. The offence is therefore on its face both gender neutral and participant neutral. This accords with the goal of outlawing the public manifestation of prostitution as it is the public act of soliciting or importuning that is criminalised. On the other hand the criminalisation of those who gain financially from the business of prostitution indicates that the activity itself is
sanctioned by the State as an illegitimate enterprise. The rationale for this is not altogether clear. It could simply be a long held antipathy of the authorities to the concept of “immoral earnings” or it could be a reflection that the activity itself is harmful and should be discouraged. In many ways it is difficult to marry the different approaches of section 7 and the other offences. This is because if the activity is harmful in itself why is the public manifestation of it the only offence and why are those who are generally recognised as being its victims, i.e. the prostitutes, also being criminalised. On the other hand Irish legal history has infamously regarded the male as being the potential victim in the act of prostitution e.g. under the Contagious Diseases Acts of the 1860-1880s women working as prostitutes were compelled to submit to medical examinations and could be detained in hospitals if found to have specific diseases. Thus it can be seen that policy in this area has been subject to change through the ages and that in turn is reflected in the statutory treatment of prostitution.

1.2 Commercialisation

As regards the commercialisation aspects these are primarily covered in the Criminal Law (Sexual Offences) Act 1993 and will only be referred to in passing herein in so far as they have relevance to policy perspectives. The Criminal Law (Sexual Offences) Act 1993 as amended by the Children Act 2001 and the Criminal Law (Sexual Offences)(Amendment) Act 2007 protects children under the age of 17 years from being solicited or importuned in relation to acts which would constitute offences against them.

1.3 Protection

The Criminal Law (Human Trafficking) Act 2008, as per the long title to the Act, was enacted to give effect to various international agreements on combating trafficking in human beings. This deals with sexual exploitation of trafficked persons and makes it a specific offence to solicit or importune a trafficked person for the purposes of prostitution, in any place i.e. not just a public place. The impact of the offence is likely to be low as there is a specific defence that the Accused did not know and had no reason to believe that the person was a trafficked person. Again these sections will not be examined but are relevant in considering the impact of prostitution as these offences reflect the global concern that many woman and children are trafficked for the purposes of prostitution. The industry of prostitution can be seen to encourage this type of reprehensible behaviour.

1.4 Observation

On a more general note it may be of some interest that there is no statutory definition of prostitution in either the 1993 Act or the 2008 Act or indeed elsewhere. So far this has not presented any difficulties with the prosecution of offences and it is generally accepted that the definition espoused (with updated gender neutrality) in the English Court of Appeal in the case of R –v- de Munck [1918] 1 KB 635 applies. That is to the effect that “prostitution is proved if it be shown that a woman offers her body commonly for lewdness for payment in return.” Later English cases have shown that not only is there no need for sexual intercourse but that any sexual acts or lewdness suffices regardless of whether the prostitute is playing the active or passive role.

2. A matter of public policy
The pros and cons of the criminalisation of prostitution are matters primarily of public policy. The importance of making this statement at this time is because a) this opinion addresses the legal aspect of criminalisation of purchase of services and not whether that should be the law and b) the fact that it is a matter of public policy may impact on the leeway the courts may give to constitutional/human rights arguments in this regard. Globally there is no consensus on the manner in which prostitution should be tackled (other than in relation to trafficked persons). It is striking that the majority of States within the United States prohibit prostitution whereas other common law countries e.g. United Kingdom, and Canada have laws which broadly speaking are similar to our own. New Zealand appears to have decriminalised as have individual Australian States. Criminalisation, decriminalisation and hybrid approaches are to be found in other European countries.

One relevant source on the different approaches is found in the study Shifting Sands: A Comparison of Prostitution Regimes across Nine Countries, (Kelly, L. et al, Child & Women Abuse Studies Unit, London Metropolitan University, 2009). The authors make the point that few, if any, countries make prostitution in all forms entirely legal. The importance of the public policy variations is that domestic or international courts are less likely to interfere with the specific legal mechanisms chosen by a State as it sees best for dealing with matters of prostitution in the criminal law, provided of course that the basic rights of all persons are respected.

This opinion has been sought in the context where the Immigrant Council of Ireland has a particular interest in prostitution given that its own research has show that the overwhelming majority of the women involved in prostitution in Ireland are migrant women (Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland, The Immigrant Council of Ireland in collaboration with the Women’s Health Project (HSE) and Ruhama, 2009). As the forward to the publication explains, in answering the self-posed question of why the broader issue of prostitution was looked at in a project aimed at examining the extent of trafficking of women and girls, [t]he reason is because there is no clear line between where the elements of trafficking end and “consent” to become involved in the sex industry begins. Many of the women who are involved in Ireland’s sex industry, who do not meet the definition of a victim of trafficking, had no real choice – poverty and life circumstances combined with deception and gross exploitation are evidence in many of their stories.” The evidence from this research and others like it is an important component in ensuring that any legislation criminalising the purchase of sexual services withstand legal challenge. The evidence that prostitution itself is inherently harmful and that those who are being prostituted, or the majority of them, are victims in some way or another whether through abuse or exploitation gives the basis for the legislative policy being pursued. There are other studies in Ireland that make these points e.g. the SAVI Report (The SAVI Report: Sexual Abuse and Violence in Ireland, Magee, H. et al, The Liffey Press in association with the Dublin Rape Crisis Centre, 2009). That report made the following points based upon the researchers’ interviews with 8 staff and volunteers from Ruhama:

- The most frequently cited contributory factor for entering prostitution was child abuse or incest
- The second most frequently cited contributory factor for entering prostitution was financial
- Homelessness, running away, abuse of any kind, drug addiction being forced into prostitution were all factors also listed
- Almost all estimated proportion of women in prostitution raped as a direct result of their involvement in prostitution at 70% or higher (for women as a whole in Ireland penetrative sexual abuse is experienced by 10% of women and attempted penetration or contact abuse by 21%)
- Reasons for not reporting the crimes to the Gardai included being afraid they would be treated badly and self-blame
- Experiences with the Gardai varied widely
- Reference was also made to the conflicting role for the Gardai presenting problems – women engaged in illegal activities who are the victims of a crime
The above gives some indication of the reality of life for women who engaged in prostitution. The above research, and other research, either domestic or international, which supports the foregoing arguments help to solidify the policy arguments for change in this area.

3. **Criminalisation of the Purchase of Sexual Services**

I have been provided with a translation of the relevant Swedish law on prostitution together with a 2004 article by Gunilla Ekberg, special advisor on issues of prostitution and trafficking in human beings to the Division for Gender Equality of the Swedish Government, entitled “The Swedish Law that Prohibits the Purchase of Sexual Services.” In Sweden since 1999 the purchase of sexual services is criminalised while leaving the selling of sexual services alone. Such an approach has apparently been taken in Norway and Iceland more recently. The 2004 article makes clear that in Sweden “prostitution is officially acknowledged as a form of male sexual violence against women and children” and that “[p]rostitution is a serious problem that is harmful, in particular, not only to the prostituted woman or child but also to society at large “[t]herefore, prostituted woman and children are seen as victims of male violence who do not risk legal penalties.” Such persons are then viewed as victims who have a right to assistance to escape prostitution. Prostitution in all its guises is seen as one of the main threats to gender equality and the right of women and girls to live lives free of male violence.

The article points to the fact that since the introduction of the law the number of women being prostituted has decreased in Sweden (although other articles available on the internet question whether this was true or whether prostitutes just left the streets). These figures are compared favourably in the article with Denmark which does not have this legislation. The article also talks of the need for strengthening the law and in one respect it seems to have been so strengthened since the article was written. The original law seemed to have a lacuna in so far as payment for the sex by another person was not an offence. The article does talk of men who regularly purchase sex from the same prostituted woman as not being covered. This may be because of the use of the word “casual” in the legislation. However, that may well be a matter of interpretation of Swedish law.

It is interesting that the justification for the criminalisation of the purchase of sexual services is based upon a gender deconstruction of violence. The law itself (with the caveat that there may be other interpretative sections that show otherwise) appears to be gender neutral. In effect the law may go further than its stated aim and protect against violence perpetrated on those who are viewed as vulnerable. The reality is that of course most of those being subjected to prostitution are women and children. [Many of the articles, judgments and studies read for the purpose of this opinion make this assertion]. Of interest too is that there does not appear to have been any successful challenge to this law on human rights or equality grounds.

3.1 **A question of constitutionality?**

Would the criminalisation of one party to the purchase of sexual services be possible in Ireland? It would certainly be possible to draft such legislation and indeed it should be possible to prosecute such an offence. The more contentious issue is whether such an offence would be constitutionally sound. Why might it be unconstitutional? The primary argument might be that it is discriminatory but other arguments could be breach of right to privacy and right to earn a livelihood.

3.2 **A breach of the right to equality?**
Article 40.1 of the Constitution provides that “all citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.” At initial consideration it will be noticed that the arguments for discrimination could not be based upon direct gender discrimination as any new legislation would be gender neutral on its face i.e. any purchaser, whether male or female would be committing an offence by purchasing any sexual service from a person, male or female. A claim of indirect gender discrimination on the basis that it criminalises more men than women may not seem to have much merit on its own as the simple reason for that is that more men than women purchase sexual services and that the rationale is not to discriminate but to protect the vulnerable. This argument will be addressed further below. Perhaps a stronger argument is that the there is a breach of the right to equality when one party to a transaction is seen as a criminal while the other is not. However, does that argument really take into account that one party is seen as victim of the other’s criminal act? These are issues that require consideration.

The role of the law in nominating one party as a perpetrator and another as a victim has been recognised for some time. Prior to the declaration of constitutional inconsistency in 2005 section 1 of the Criminal Law (Amendment) Act 1935 only a male could be prosecuted for the offence of unlawful carnal knowledge with an underage girl i.e. even if both parties consented only the male was liable regardless of the age of the male. This section was declared not to have been carried over in the 1937 Constitution by the Supreme Court on the basis that it did not provide for a defence of honest albeit mistaken belief as to age. The question of constitutionality due to gender discrimination was not considered.

The offence of unlawful carnal knowledge was re-enacted and expanded by the Criminal Law (Sexual Offences) Act 2006 in which it is an offence for any person to engage in a sexual act with a child who is under the age of 17 years. The sexual act can be sexual intercourse or buggery. In relation to sexual intercourse the Act goes on to say that a female child shall not be guilty of an offence by reason only of her engaging in an act of sexual intercourse. This was challenged as an unconstitutional piece of gender discrimination by a boy who was charged, inter alia, with an offence of engaging in sexual intercourse with a girl under the age of 17 years in the case of M.D (A Minor) –v- Ireland, Attorney General and Director of Public Prosecutions, High Court, 26th March 2010.

In rejecting the Plaintiff’s case Ms. Justice Dunne’s analysis was as follows: that as there was different treatment for those children under the age of 17 years who engaged in sexual intercourse it had to be viewed as discriminatory on grounds of gender. She held that it was then necessary to consider whether, given the lack of equality of treatment the State could rely on the provisions of Article 40.1 of the Constitution to show that “the differentiation is legitimated by reasons of being founded on difference of capacity, whether physical or moral, or difference of social function of men and women in a manner which is not invidious, arbitrary or capricious.” She looked at the objective of the Act as a whole, which was to protect children, boys and girls from sexual abuse. She noted the Act dealt with a complex and wide range of sexual activities, circumstances and levels of culpability with different sentencing regime for some offenders dependent on age. It was only in relation to acts of sexual intercourse that there was immunity for girls. It is an immunity in the one area of sexual activity that can result in pregnancy which of course is only a risk borne by girls. She noted that the adverse consequences that flow from under age sexual activity fall to a greater extent on girls than boys. She said that far from being a good old fashioned example of discrimination against young boys the Act provided a limited immunity on girls in the one area of sexual activity that risks a pregnancy. She held “[s]ociety is entitled to deter such activity and to place the burden of criminal sanction on those who bear the least adverse consequence of such activity. The Act goes no further than is necessary to achieve this object.” She held that this was a rational basis for the difference in treatment and therefore the discrimination was seen to be
legitimate by reason of being founded upon difference of capacity, physical or moral, or difference of social function of men and women which is not invidious, arbitrary or capricious.

The **M.D.** case is likely to be appealed to the Supreme Court and ultimately that Court will decide the issue. It is generally accepted in Ireland that our constitutional guarantee of equality is an underdeveloped jurisprudence (see J.M.Kelly: The Irish Constitution, 4th Edition, Hogan and Whyte, 2003, LexisNexis Butterworths). In those circumstances the Supreme Court could take the opportunity to be expansive in this area and it is difficult to predict the approach the Supreme Court will take nor indeed the outcome. It is interesting that Hardiman J in delivering the judgment of the majority in the case of **CC v. Ireland [2006] 4 IR 1**, in which the offence of unlawful carnal knowledge was struck down as unconstitutional due to a lack of a defence regarding the age of the victim, referred to the case of **Michael M. v. Superior Court of Sonoma County (1981) 450 US 464**. In that case, relied upon by Dunne J, the U.S. Supreme Court had accepted as constitutional the gender discrimination involved in the particular offence of unlawful carnal knowledge between boys and girls. Mr. Justice Hardiman, referred to this case even though discrimination was not at issue in **C.C** and referred to the narrow majority in the **Michael M.** case to show how fraught the issue has become from a constitutional point of view. However, there are certainly aspects of the judgment in the M.D case that follow established precedent. Ms. Justice Dunne followed the reasoning of Ms. Justice Laffoy in **S.M. v. Ireland [200] 4 IR 369** which had held the difference in penalty for indecent assault on a male rather than a female to be inconsistent with the Constitution. It is a strongly argued rationality and proportionality test. It is of considerable interest that Ms. Justice Dunne based her judgment not on an appeal to the necessity for doing away with any obstacle to a girl seeking medical attention particularly relating to pregnancy but to the fact that if one party faces greater adverse consequences from the act then society is entitled to deter the activity by placing a burden of criminal sanction on the other party.

The finding in **M.D.** has particular importance for the present proposed legislation. Regardless of whether the legislation is impugned as one of indirect gender discrimination or straight forward discrimination on the basis of a different treatment of two human beings party to the same consensual transaction albeit on different sides, it can be argued that society is entitled to deter activity it sees as harmful to society and/or to individuals and to do so in a way which makes the criminal burden fall on the party suffering the least adverse consequences. The view that prostitution is inherently harmful and exploitative to those who are prostituted is a highly articulated one and there is much research to back up this view. It is seen as harmful in itself with most of those entering prostitution doing so because of some kind of vulnerability or another. It also appears to be the case that many of those in prostitution are being pimped by someone else (see reference in Globalisation, Sex Trafficking and Prostitution, above, containing caveat that due to clandestine nature of prostitution it is difficult to be sure of numbers). As living on the earnings of a prostitute is illegal as is brothel keeping, there is no doubt that society has for a long time had an interest in the suppression of the act of prostitution itself. It is also the case that a sizeable proportion of those who are in prostitution are trafficked in one way or another and it can certainly be argued that the criminalisation of the purchase of sexual services goes a long way towards suppressing the industry of prostitution which would lead to a decrease in the number of trafficked persons. In other words society has a host of reasons to justify the criminalisation of the purchase of sexual activity while treating the provider as a victim of *inter alia*, violence, exploitation, trafficking and abuse.

The judgment in **M.D.** referred to cases from the United Kingdom in which the issue of whether the difference in treatment between males and females as to how they were dealt with in certain sexual offences was a breach of either Article 6 (right to a fair trial) or Article 8 (right to respect of private and family life) in conjunction with Article 14 (freedom from discrimination) under the European Convention on Human Rights. In all of those cases the English courts were quick to dismiss any element of unlawful discrimination in the difference in treatment. Interestingly in
relation to Article 8 there was a reluctance to say that Article 8 was even engaged on the facts of the case.

There is an apposite comment (albeit *obiter dicta*) from the Canadian Supreme Court as to society’s interest in preventing harm in the context of prostitution. *R v Labaye* [2005] 3 S.C.R. 728 was a case which queried whether the accused had committed the offence of keeping a common bawdy house for the practice of acts of indecency in circumstances where consenting adults paid in to this premises as club members, where they could participate voluntarily in acts of group sex. Interestingly there was a separate offence of keeping a common bawdy house for prostitution but that was not the issue in this case. The case turned on the ingredients of indecency within the Canadian criminal code. The Supreme Court judgment proffered a new test for what amounted to indecency and much of this revolved around harm or the significant risk of harm in a way that undermines or threatens to undermine a value formally endorsed in the Constitution. In relation to harm the Supreme Court made the following observations:

“48. A third source of harm is the risk of physical or psychological harm to individuals involved in the conduct at issue. Sexual activity is a positive source of human expression, fulfilment and pleasure. But some kinds of sexual activity may harm those involved. Women may be forced into prostitution or other aspects of the sex trade. They may be the objects of physical and psychological assault. Sometimes they may be seriously hurt or even killed. Similar harms may be perpetrated on children and men. Sexual conduct that risks this sort of harm may violate society’s declared norms in a way that is incompatible with the proper functioning of society, and hence meet the Butler test for indecent conduct under the Criminal Code.

49. The consent of the participant will generally be significant in considering whether this type of harm is established. However, consent may be more apparent than real. Courts must always be on the lookout for the reality of victimization. Where other aspects of debased treatment are clear, harm to participating individuals may be established despite apparent consent.”

On the other side of the argument, one issue that might be raised to reject any attempt to protect prostitutes at the expense of their clients is that of the rejection in strong terms of utilitarian arguments (an embracing of a perceived injustice for the greater good) in the case of *CC* by the Supreme Court. In *CC* the injustice was the criminalisation of a “mentally innocent” defendant for the greater good of the protection of girls. In the case of a purchaser of sexual services there is certainly no question of “mentally innocent” as all persons are taken to know the law i.e. that the purchase of sexual services is illegal. Any proposed legislation would focus on making a distinction between parties to a transaction that is rationally justified and proportionate to its objected i.e. the prevention of exploitation by persons who are vulnerable.

In my opinion there is evidential support for the proposition that prostitution causes harm to the provider (mainly women) or a significant risk of such harm and there is sound legal support for the proposition that to differentiate between the consumer of paid sexual services and the provider of such sexual services would not amount to a breach of equality of treatment under the Constitution nor any discrimination of treatment in the respect for rights under the European Convention on Human Rights.

### 3.3 A breach of the right to privacy?

A claim could be made that the criminalisation of the purchase of sexual services amounts to a breach of the right to privacy. Given the unfortunate history of the Irish Supreme Court it might even be queried whether a right to individual privacy with regards to sexuality is recognised in the
State (see Norris v Attorney General [1984] IR 360). Even the majority in Norris had appeared to accept that there could be a right to privacy but the issue was how extensive it was given the competing interests of the State in matters of privacy sexuality. Later cases were much clearer in their acceptance of a right to privacy albeit one that is subject to restriction "by the constitutional rights of others, or by the requirements of the common good, and it is subject to the requirements of public order and morality." as per Hamilton P in Kennedy v Ireland [1987] IR 587. In my opinion the arguments as to harm as well as issues of public order and morality would provide a compelling answer to any claim of unlawful interference with the right to privacy.

Similarly the justifications for interference set out in paragraph 8 of the European Convention on Human Rights would be relevant e.g. for the prevention of disorder and crime, for the protection of health or morals or for the protection of the rights and freedoms of others”. It can certainly be argued that the provisions are necessary for these purposes given the ongoing issues with prostitution and the large numbers of trafficked women who now appear to be present and it would seem a proportionate response. If the Supreme Court were to hold that there was no breach of the constitutional right to privacy it would seem to follow in this particular case relating to privacy that they would be unlikely to find any distinguishing feature between the constitutional right to privacy and rights under Article 8 to justify a declaration of incompatibility. In those circumstances even if the matter went to the European Court of Human Rights, it is likely that the margin of appreciation that is afforded to States in the calculation of proportionality would mean there would be a rejection of any claim for a breach. This is a likely outcome due to the diversity of views even within the Council of Europe countries on how to deal with prostitution.

3.4 A breach of the right to earn a livelihood?

The right to earn a livelihood has long been recognised as an unenumerated personal right under Article 40.3 of the Constitution. It can also been seen as an extension of the right to property. This would be a novel argument however – to say that the criminalisation of the participation by one party was denying the right to earn a livelihood by the other. A right to earn a livelihood is not unfettered however and there have been many instances of the courts holding that the interference was perfectly justifiable e.g. Rogers v ITGWU [1978] ILRM 51. In the context where commercial forms of prostitution have been criminalised for a long time e.g. brothel keepings, living of the earnings and where public manifestations of it are criminalised (including advertising for the services of a prostitute), there is unlikely to be much difficulty for the State in persuading the court that there is no right to earn a living from an occupation that the State regards as inherently harmful to society and contrary to the common good.

4. A new offence

The first issue is whether there should be an amendment/substitution of section 7 of the Criminal Law (Sexual Offences) Act 1993 or there should be an additional offence. In one sense this is a policy issue. Does the organisation or campaign want to keep the offence of soliciting in public, under which a prostitute who solicits is liable to criminal sanction, or does it want to remove all taint of criminality from the victim of prostitution? An argument in favour of removing it is that it is consistent with the view of the prostitute as victim. On the other hand the section provides a probably most welcome criminal prohibition on public manifestation of prostitution for the residents of those areas which unfortunately attract this type of activity. Furthermore if there is only a criminalisation of the purchaser then there may be difficulties in the proof of offences where the prostitute engages in the "come on". This could happen if the law change were to be made and the word gets round on how to circumvent it. Proving the act of purchasing of sexual services might be more difficult and therefore there may be good reason to keep the law as it is.
The other issue is whether an agreement to purchase sexual services should be criminalised. From a purely prosecutorial point of view it would seem best to have such an offence as there may be difficulties in proving the actual provision of the sexual service. The Swedish legislation refers to “obtaining a casual sexual relation in return for payment.” The use of the word “casual” could cause problems if for example there is an ongoing “relationship” with the same person for the purposes of prostitution. The model opted for is to incorporation the word “prostitution” into the new legislation without the necessity to define it as the judiciary can then draw on the commonly understood meaning of prostitution as applied at common law which is quite wide and has not presented any apparent difficulties to date. It is also thought better to move away from the word “prostitute” as this would put a focus on the status of a person rather than the act that it is at issue. The actual penalties imposed are obviously a matter of choice but it seems that if the reason for the criminalisation is the harm it does to the victim then greater sentences than that imposed for soliciting would seem merited.

A draft of a new offence, whether in addition to or in substitution for section 7 would be as follows:

1. (1). Any person who requests, agrees to, contracts for, the obtaining of sexual services by means of prostitution shall be guilty of an offence.
   (2) It is immaterial whether the request, agreement or contract is made with the person who is to provide the sexual service or with another.
   (3) It is immaterial whether the sexual service is to be provided to the person who has made the request, agreement or contract for the obtaining the said sexual service or is to be provided to another person.
   (4) It is immaterial where in the world the sexual service is to be provided
   (5) A person guilty of an offence under this section shall be liable on summary conviction to:
      a) A fine not exceeding €500 on first conviction
      b) A fine not exceeding €1000 on second conviction
      c) A fine not exceeding €1500 and/or a sentence of imprisonment not exceeding 3 months in the case of a third or subsequent conviction

2. (1). A person who obtains a sexual service by means of prostitution shall be guilty of an offence.
   (2) It is immaterial whether the payment or promise of payment is made with the person who is to provide the sexual service or with another.
   (3) It is immaterial where in the world the payment is to be made or has been made
   (4) A person guilty of an offence under this section shall be liable on summary conviction to:
      a) A fine not exceeding €1000 on first conviction
      b) A fine not exceeding €3000 and/or a sentence of imprisonment not exceeding 6 months in the case of a second or subsequent conviction

5. Paying for services of a woman in prostitution who has been exploited

The United Kingdom has recently enacted legislation (Policing and Crime Act 2009) which makes it a criminal offence to pay for the services of a prostitute who has been exploited. The controversial part of the legislation is that it provides for an offence of strict liability as it is not necessary to prove that the person purchasing the services knew or ought to have know that the person had been exploited. The UK government’s position appears to be put by the Attorney General who said it was saying to individuals “If you wish to purchase sex from an individual, you can- there is no impediment to you doing that-but you have to be sure from whom you are purchasing. You have to be sure that that person isn’t coerced, that they are of the right age and that you are no in fact engaging in sexual abuse. If you are not sure, then maybe you should buy from someone else.” (Hansard, House of Lords, 3 November 2009, 245).
The new offence in the United Kingdom appears to carry only a fine. This in effect is consistent with the use of strict liability offences where the offences are seen as summary only and not as culpable as those dealt with on indictment. However, it does appear strange that if the offence is there to protect people who are clearly the victims of abuse that the penalty should be so small. In the UK at the time of the enactment of this legislation there had been a decision of the House of Lords in the case of R –v- G [2009] 1 AC 92 in which a 15 year old boy challenged his conviction for the offence of rape of a girl under the age of 13 years contrary to section 5 of the Sexual Offences Act 2003. Under that legislation consent was not a defence nor was reasonable belief as to age. The House of Lords in that case held, inter alia, that this type of offence of strict (indeed absolute) liability was not incompatible with a fair trial under Article 6 of the European Convention on Human Rights and that there had been no breach of Article 8 rights either. Of course in Ireland the Supreme Court in the case of C.C. –v- Ireland [2006] 4 IR 1 held that the lack of any defence as to honest or reasonable belief in the age of the person was unconstitutional as it criminalised a person without any mental guilt to a maximum sentence of life imprisonment and therefore failed to respect the liberty or dignity of the individual and constituted a failure by the State to vindicate the right of the citizen to liberty and his good name.

Of significance in that case was the sentence to be imposed on the “mentally innocent” defendant i.e. that of life imprisonment. In the UK case the sentence for the new offence is a fine. A thread that appears to run through the judgment in C.C is that it may not be constitutionally impermissible to create an offence of strict, or even of absolute, liability. In the C.C. case counsel for the applicant did not contend that it was impermissible for the Oireachtas to create such offences. Most of these type of offences are seen as regulatory or even civil or administrative in nature although utilising the mechanisms of the penal system. The Supreme Court appeared clear that the nature of the sentence was also of considerable importance with the possibility of a sentence of life imprisonment being highlighted in the case. The judgment refers to “criminalise in a serious way a person who is mentally innocent...”(emphasis added). Of particular note is that the judgment also makes reference to the social stigma of the conviction itself for the particular offence and indeed the entry on the Sex Offenders’ Register.

While there are clear distinctions between the UK offence and the offence at issue in CC, the penalty available being chief amongst them, it is not possible to be certain how the Supreme Court would adjudicate on any constitutional challenge. On the one hand the argument regarding the penalising of a “mentally innocent” person might not be as strong if there was already a prohibition on the purchase of sexual services generally. One could argue that where one has an exposure to criminal penalty for the very act involved (i.e. the purchase of sexual services) a lack of mens rea as to the full extent of the harm that your act entails is irrelevant. In the context of the criminalisation of drugs offences the Supreme Court has ruled in the case of People (DPP) –v- Power [2007] 2 IR 509 that the provisions of section 15A of the Misuse of Drugs Act 1977 as amended does not require a specific additional proof of the value of the drugs despite a value in excess of €13,000 exposing an accused to a significantly harsher penalty regime. That case was decided at a statutory interpretation level rather than a constitutional level but it is an example of a legislative scheme with mens rea requirements not necessarily being specific to each ingredient.

On the other side of the argument the Supreme Court may find that this offence is not regulatory in nature (which it certainly appears not to be). The Court may find that conviction for such an offence (dealing as it does with the abuse of another even without participation in, or knowledge or, or recklessness towards, such abuse) that it does not respect the dignity of the human person as required by the Constitution. Overall there can be no guarantee that any such offence would pass constitutional muster but arguments could be made as to why it might be so. The issue as to whether there would be any political will for legislating on an issue where real uncertainty as to outcome exists is best left to others to decide.
Nothing further occurs

Aileen Donnelly SC
10th May 2010
Turn off the Red Light Campaign

Research memo on strict liability

Alan D.P. Brady B.L.

The Turn off the Red Light (TRL) campaign is lobbying for the introduction of a criminal offence of purchasing sex. The campaign's current proposal would make it an offence to 'obtain a sexual service by way of prostitution' and additionally make it a separate offence to 'request, agree to or contract for' the obtaining of a sexual service by way of prostitution. The campaign seeks advice on whether this proposal raises any issues of strict or absolute liability. As currently envisaged, the proposal does not include any element of strict liability. The purposes of this research memo is to explain the concept of strict liability and why it does not arise in this instance.

Mens rea and strict liability

The elements of a criminal offence which must be proven are generally broken into two categories of element: the mens rea (which translates as 'guilty mind') which is also known as the 'mental element', and the actus reus which is also known as the 'external element'. Mens rea is concerned with a defendant's intention, knowledge and/or awareness of risk. The actus reus consists of the acts and/or circumstances of the offence. Each element of actus reus will correspond to an element of mens rea. Criminal offences differ substantially in the elements which must be established to prove the offence. Some will have an intention element and an act element, others will have a recklessness element, a knowledge element and a circumstantial element. Actus reus and mens rea are general classifications used to describe the sub-elements of any criminal offence. There will often be multiple parts to both the actus reus and mens rea of an offence.
To give a specific example, the offence of rape consists of having penetrative vaginal intercourse with a woman who does not consent to intercourse and the defendant knows that she does not consent or is reckless as to consent. In this instance the act of intercourse and the circumstance of the lack of consent constitute the *actus reus*. Neither of these elements requires proof of what was in the mind of the offender. The *mens rea* of the offence of rape entails both the intention to have sexual intercourse and either knowledge or recklessness as to the lack of consent. The prosecution must prove both parts of the *mens rea* and both parts of the *actus reus* in order to obtain a conviction.

A large number of offences, (especially less serious offences, or offences with smaller penalties) do not require the prosecution to prove *mens rea*. This means that once the prosecution proves the *actus reus* (i.e. shows that the acts and/or circumstances of the offence are present), the defendant will be convicted. These offences are generally referred to as ‘strict liability’ offences in Irish legal practice and legal education. While this catch-all term continues to be used, there is technically a distinction between ‘strict liability’ offences for which there is an opportunity for the defendant to show that they acted with due diligence and ‘absolute liability’ offences where there is no such defence.

Although there are a wide number of strict and absolute liability offences, there is a general presumption that criminal offences should have *mens rea* and where a statute is ambiguous, *mens rea* will often be implied. In the case of *CC v Ireland* section 1(1) of the Criminal Law (Amendment) Act 1935 was found to be unconstitutional on the basis that it imposed strict liability on the ‘mentally innocent’ for a serious sexual offence: having sex with a girl under the age of 15. The offence could be proven once it was...

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1 Section 2 Criminal Law (Rape) Act 1981.
2 The two terms are used somewhat interchangeably in Irish legal practice and education. In the case of *CC v Ireland* [2006] 4 IR 1 the court distinguished between ‘absolute liability’ for which there is no need to prove *mens rea* of any kind and ‘strict liability’ for which there is no obligation to prove *mens rea* in the first instance, but for which the defendant can raise a defence of due diligence. This distinction was derived from the approach of the Canadian Supreme Court. See also, Charleton, McDermott & Bolger *Criminal Law* (Butterworths, 1999) at pp.26-27.
3 *Sweet v Parsley* [1970] AC 132; and *People v Murray* [1977] IR 360.
shown that a defendant had sexual intercourse (phrased as ‘carnal knowledge in the original Act) with a girl and that she was under 15. It did not matter for the purposes of section 1(1) whether the defendant knew, or had reason to know what age the girl was or was reckless with regard to age (although the mens rea of intending to have sexual intercourse was part of the offence\(^5\)). The Supreme Court gave the matter a very detailed analysis which will not be discussed at length here. The thrust of the judgment was that for a serious sexual offence carrying the possibility of a very high sentence and large degree of social stigma it was unfair to impose criminal liability without any element of mens rea. The court took the view that this would criminalise a person, and criminalise them profoundly, in circumstances where they had not been shown to be morally blameworthy. One ramification of the decision is that future proposals for reform of the criminal law require drafters to be careful that serious offences do not entail an element of absolute liability.

**Strict liability in the proposed offence**

In the offence as proposed by TRL, a person would be liable if it could be shown that they obtained a sexual service by way of prostitution or (as a separate offence) if they requested, agreed to or contracted for a sexual service by way of prostitution. The existing common law understanding of prostitution is that it is an offer of sexual service in exchange for reward\(^6\). As currently envisaged, this offence would be tried summarily and would have relatively low maximum penalties. In such circumstances, it may be acceptable to include an element of absolute or strict liability based on the rationale of the CC judgment. However, quite apart from this, there does not appear to be any strict or absolute liability in the proposal.

\(^5\) Where an offence involves multiple elements of *actus reus* it will be said to be strict liability if one of the elements of the *actus reus* does not require *mens rea* even if the remaining elements of *actus reus* do require *mens rea*.

\(^6\) See *R v McFarlane* [1994] QB 419.
Based on the presumption of *mens rea* a statutory offence of the type proposed by TRL would be read so as to assume that the offence contained *mens rea*. In this instance it seems most likely that the *mens rea* would have two parts: (a): the intention to obtain the sexual service with (b): the knowledge the service was being offered by way of prostitution.

It is extremely difficult to see how any strict liability element could arise on the proposal currently set out by TRL. The act of obtaining a sexual service by way of prostitution requires the defendant to engage in at least some form of rudimentary express or implied discussion of terms with the person offering the sexual service by way of prostitution. In order for the transaction and the sexual act to take place, a certain minimum degree of intention will always be present. Similarly, in order to complete the *actus reus* of obtaining or contracting to obtain the sexual service, the accused person would ordinarily need to be aware that it was being obtained by way of prostitution (i.e. the knowledge *mens rea*).

The secondary offence of requesting, agreeing to or contracting for would arguably be particularly unlikely to give rise to strict liability since the act of requesting, agreeing or contracting would by definition involve knowledge of the terms.

A minor issue arises in relation to a person for whom a sexual service is obtained by way of prostitution but who is unaware that that was the basis on which the service was provide. For example, if a person (A) received a sexual service that had been obtained for A by another person (B) from a prostitute (C). A may engage in a sexual act with C unaware of the fact that it was by way of prostitution, because the transactional element involved had taken place in A's absence. It seems unlikely that A would be prosecuted, and on the current proposal, it is unlikely that A would be convicted since he lacked the knowledge that the service was provided by way of prostitution. The current formulation of the offence would most probably be construed to include a knowledge *mens rea* element. If was not so construed, A might be convicted on a strict liability basis, but this seems unlikely and could be expressly excluded by tailoring the wording of the offence. In such a situation, it does seem possible that B would be convicted, since B had obtained the service, notwithstanding the fact that B did not personally avail of it.
**Strict liability in the English reforms of 2009**

Section 53A of the Sexual Offences Act 2003 (as inserted by sections 14 Police and Crime Act 2009) makes it an offence in England and Wales to pay for a sexual service in circumstances where the person from whom the service is obtained has been subject to exploitative conduct, which includes threats and deception. Unlike the TRL proposal for reform of the law in Ireland, the English law has an additional element of *actus reus*: the circumstance of the sex worker having been subject to exploitative conduct. With regard to this extra element, there is no *mens rea* requirement. Therefore, that aspect of the English offence is strict liability.

Two points arise for the purpose of TRL’s campaign. First: as TRL is not proposing an offence that involves this extra requirement of exploitative conduct the strict liability issue does not arise in relation to the current proposal. Secondly, even if it were to arise, the level of seriousness of the offence is relatively low: the maximum sentence is a fine. Therefore, even on the *CC* analysis, an offence of this type may pass constitutional muster in Ireland. The crux of the issue in *CC* was not that it was not permissible to have strict liability or absolute liability. It was that it was not permissible to have it for serious offences.

**Conclusion**

In light of the *CC* decision it is understandable that policy-makers are concerned to ensure that any new offences are not found to be unconstitutional on the basis of including an element of strict or absolute liability. The offence currently proposed by TRL does not include any such element and so would not be at risk of a finding of unconstitutionality on that basis.
Turn off the Red Light Campaign

Research note on penalties for purchasers of sex

Alan D.P. Brady B.L.

The Turn off the Red Light (TRL) campaign is lobbying for the introduction of a criminal offence of purchasing sex. The rationale behind the campaign is that by reducing the demand for commercial sex, the incidence of prostitution, and by extension human trafficking in Ireland will be reduced.

Theoretical assessment

From a penological perspective, this campaign involves both a consequentialist and a retributivist element. It is consequentialist in that it seeks to produce the consequence of reducing the incidence of prostitution. It is retributivist in that it seeks to engage in condemnation of the practice of purchasing sex, primarily on the basis that it is exploitative and deserving of moral opprobrium.

An assessment of the appropriate penalties for any new offence must take account of both of the rationales for the offence itself. The rationales for sentencing on foot of a criminal conviction are generally accepted to include retribution, deterrence, rehabilitation, incapacitation, and denunciation. The reasons behind the setting of a maximum penalty for a particular offence can involve multiple rationales. The consequentialist element of an offence of sex purchase would suggest that deterrence should be a focus in determining the appropriate penalty. The moral retributivist element would suggest denunciation and some extent of retribution.

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1 See O'Malley Sentencing Law And Practice (2nd ed., Dublin: Round Hall, 2006), pp.29-46-2-
A deterrent penalty would be set at a level that would seek to change the behaviour of the offender and (perhaps more importantly) of other potential offenders. This is a quasi-utilitarian analysis. There is evidence to suggest that deterrence is dependent as much on the certainty of punishment as on the level of punishment. Certainty will depend on the design of the offence. An offence which is easier to prove, especially one with a low level of mental element (mens rea) will result in more convictions. It will however involve less moral culpability. Similarly a summary (District Court only) offence will require fewer resources to prosecute, which should lead to more prosecutions.

As regards the level of penalty, research on the profile of those who pay for sex suggests that it is relatively common (approximately 10% of men in London have reported paying for sex at some point in their lives), that it spans a wide demographic and that a significant portion of the men are married. This suggests that the offender profile for an offence of purchasing sex will be more in line with the offender profile for road traffic offences than other commonly prosecuted offences, such as misuse of drugs or theft. As such, the fact of prosecution may provide a strong deterrent effect, of itself, regardless of the level of punishment, as many of the potential offenders have a significant stake in society and would seek to avoid a criminal record. Kennedy describes this as a loss of personal capital.

The stigma of a criminal conviction goes some way to meeting the retributivist element of the justification for an offence of sex purchase. The fact of being convicted is, of itself, a strong statement of disapproval by society of conduct of which it disapproves. Once that statement has been made, a retributivist or denunciatory sentence seeks to punish the offender in a manner commensurate with the gravity of their wrongdoing.

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It is submitted that the penalty for purchasing sex must be assessed on the assumption that the sex worker is consenting to the act. Any non-consensual sexual act should be treated *prima facie* as a rape or a sexual assault and it is important that the integrity of the principles involved in those serious sexual offences be maintained. Assuming that the sexual acts involves are unforced, it is difficult to directly measure the harm of commercial sex. TRL may have views on this analysis. It is submitted that one principle is that the sex purchaser is creating a market in which people are trafficked and forced sexual activity occurs. The offender is therefore contributing at some remove. This suggests, that on a purely retributivist model the penalty for the offence should be relatively low. An analogy would be with the person who speeds while driving, but does not hurt anyone, but by doing so, contributes to a culture of speeding in which others are killed.

**Appropriate Penalties**

In England and Wales, Section 53A of the Sexual Offences Act 2003\(^6\) makes it an offence to purchase sex from someone who has been induced into prostitution by exploitation. It is irrelevant that the defendant is unaware of the exploitation. The penalty for an offence under section 53A is a level 3 fine on the standard scale, which is currently set at £1000.\(^7\) Section 51A of the Sexual Offences Act 2003\(^8\) provides an offence of soliciting a person in a public place for the purposes of obtaining their services as a prostitute. This is also subject to a maximum level 3 fine (i.e. £1,000)

The Swedish criminal offence of purchase of sexual service is provided for in Section 11 of Chapter 6 of the Swedish Criminal Code 1962. The penalty is a fine or six months imprisonment.

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\(^6\) s inserted by section 14 of the Police and Crime Act 2009

\(^7\) See section 37 of the Criminal Justice Act 1982 (as amended).

\(^8\) As inserted by section 19 of the Police and Crime Act 2009.
Both the Swedish and English models employ relatively minor penalties for the offences involved and the English model does not provide for a sentence of imprisonment. This may have some benefits. If an offence in Ireland were only to be tried summarily in the District Court, then the offence could not carry any more than 12 months imprisonment or a Class A fine. Offences tried summarily tend to be tried more quickly and involve far less court and police time. As such, the chances of the resources being available to conduct a large number of prosecutions are greater with a summary offence. This, arguably, increases the likelihood of a person facing a prosecution, which may go some way towards increasing deterrence.

The counter-argument is that if there are low penalties, then this will also reduce deterrence. This may be the case for offenders for whom the fact of a criminal conviction is inconsequential. However, given the profile of sex purchasers, it seems unlikely that this would apply to large numbers. Therefore the increased chance of prosecution and conviction may spread the deterrence more widely in a way that reduces the countereffect of the low penalty.

An additional point arises with regard to imprisonment. If the offence is punishable by way of fine only, the offender will not be at risk of a prison sentence. Section 2 of the Criminal Justice (Legal Aid) Act 1962 stipulates that to qualify for legal aid, a person must be unable to pay for their own representation and, having regard to the gravity of the charge, it is essential that they be represented. In practice this has been applied as a test of being ‘at risk’ of imprisonment. While the Supreme Court has recently expressed strong reservations about the ‘at risk’ test\(^9\), it seems unlikely to change the practice of not granting legal aid in circumstances where the offence does not carry a penalty of imprisonment at all. As such, it seems likely that making the penalty for a sex purchase offence a fine only would preclude defendants from obtaining criminal legal aid, meaning they would be forced to either defend themselves or pay for representation.

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\(^9\) *Joyce v Judge Brady* [2011] IESC 36
from their own resources. It is recommended that imprisonment not be a penalty for an offence of sex purchase.

The Fines Act 2010 (‘the 2010 Act’) overhauled the system of fines for summary offences in Ireland. Part 2 of the 2010 Act\(^\text{10}\) provides a consolidated framework of fines for summary offences. There are now five levels of fine. They are:

- Class A – not exceeding €5,000
- Class B – not exceeding €4,000
- Class C – not exceeding €2,000
- Class D – not exceeding €1,000
- Class E – not exceeding €500

By consolidating the fines in this way, the Oireachtas can more easily change the levels of fines for offences across the board, without the cumbersome task of amending huge swathes of legislation separately.

Section 14 of the 2010 requires a sentencing court to take account of a person’s financial circumstances when setting the level of a fine. The purpose of this is stated in section 14 as ensuring, as far as practicable, that the effect of the fine is not ‘significantly abated or made more severe’ because of the person’s financial circumstances. At the time of writing section 14 has not yet entered into force.

It is suggested that a Class B or C fine would be the appropriate penalty for an offence of sex purchase. Once section 14 comes into effect, the means of the offender will be a factor. Given the wide demographic profile of sex-purchasers, a Class E fine may be a derisory amount for some who are convicted of the offence. A maximum fine of €2,500 or €4,000 is more likely to account for the range of offenders.

**Non-Conviction Penalties**

\(^\text{10}\) Entered into force on 4 January 2011, see Fines Act (Commencement) Order 2010 (SI No 662 of 2010)
Two non-conviction penalties that may be of use from a consequentialist perspective are fixed notice penalties and the Garda Adult Caution system.

There are a number of Irish criminal law provisions which provide for fixed notice penalties\(^{11}\). Any fixed charge penalty provision in new legislation creating an offence of purchasing sex should ideally be worded in a similar manner; this will allow the fixed penalty provision to fit into the existing landscape of penalties with minimal transitional difficulty.

Of the provisions for which fixed penalty notices are currently used, the closest is probably sections 4 and 5 of the Criminal Justice (Public Order) Act 1994. Section 4 is the offence of public drunkenness and section 5 is disorderly conduct in a public place. These are offences which involve a certain degree of moral stigma and opprobrium in the community (in a way that many road traffic offences, such as speeding do not).

Sections 28A and 28B provide for fixed penalty notices for section 5 and section 4 respectively. A fixed notice under section 23A or 23B can be made where a Garda has reasonable grounds for believing that a person is committing, or has committed, the relevant offence (either section 4 of section 5 of the Public Order Act). The person must give the Garda their name and address, otherwise they will be guilty of an offence. The notice is served on the person either in person or by post. The notice informs them that:

1. It is alleged that the committed the offence
2. When and where it was alleged to have been committed
3. The period within which they must pay the amount of the fixed charge
4. If the charge is not paid, they will be prosecuted for the offence.

A fixed charge penalty is not a penalty on foot of a conviction. The person is never convicted of the offence and the penalty is not a fine. It is essentially a way for a person to avoid prosecution and conviction by paying a small fee. It is used for relatively minor summary offences. The paying of the fee provides some measure of sanction without -7-

\(^{11}\) For example: Road Traffic Acts 1961-2005, for which fixed notice penalties are provided in the Road Traffic Acts 1961 to 2005 (Fixed Charge Offences) Regulations 2006.
taking up much police time or any court time. The amounts paid are considerably lower than the maximum fine if convicted. Section 4 penalty notices are for €100, whereas the maximum fine on conviction is €500. For section 5 the penalty notice is €140 and the maximum fine on conviction is €1,000.12

The Adult Caution scheme is run by the Gardaí, having been formally approved by the Director of Public Prosecutions in 2006.13 There is no statutory basis for the scheme and certain serious offences are excluded from the scheme. The essential criteria for the administering of an adult caution are that the person knowingly admits their guilt, is unlikely to reoffend and the caution is in the public interest. Ordinarily, a person is only eligible for an adult caution once.

Neither a fixed penalty notice, nor an adult Caution entails a prosecution of the suspected offender and therefore it does not involve a conviction. There would be very serious constitutional difficulties with attempting to introduce any mechanism that imposed a conviction without a court hearing, and so there is little value in even exploring that avenue. The benefits of a fixed penalty notice or an adult caution is that they both force the offender to face their wrongdoing. To that extent, some level of deterrence may arise. In the case of the fixed penalty notice, the document is usually served on the person’s home, which may cause the imposition of stigma and denunciation. Similarly the adult caution requires the person to attend at a Garda station. The drawback of these two systems relative to a prosecution is that no conviction results. However, the resource implications are such that far more individuals can be caught by fixed penalty notices or adult cautions and there will be some element of denunciation and deterrence in many cases.
Research Note on Immunity and Leniency for Purchasers of Sex

by Tatiana Kelly B. Ling (Hon), CTA, Dip. LS, LL.B (Hon) candidate at NUI Galway

The Turn Off the Red Light Campaign is lobbying for the criminalisation of the act of purchase of sex services by imposing a fine and/or other penalties on the individual.

The rationale behind such a proposal is that in the event of the purchase of sexual services becoming a crime and, therefore, by encompassing a fear of the criminal label being attached to an individual, it will reduce the demand for such services and therefore the issue of human trafficking in general. Since the research suggests that the predominant population of buyers belong to the upper classes, it can strongly be argued that the possibility of publications of their identities in connection with the above services, similar to Tax Defaulters’ List, published quarterly by the Revenue, can have serious implications on the careers and lives of individuals in general and, therefore, have a strong deterrent effect. The main focus of this research note is to outline the current approaches in relation to immunity or leniency in sentencing for offenders in exchange for information in Ireland. The existence of such provisions in relation to purchases of sex can provide valuable intelligence to the Garda Síochána in the investigation and prosecution of those who organise prostitution (pimps), while at the same time it can allow purchasers in certain circumstances to avoid the stigmatization in connection with the offence by providing cooperation.

A great deal has been said already in relation to the legislative provisions in Sweden in respect of purchasers of sex and to dwell further on this issue in general is outside the scope of this research, but it is worth restating a few points to re-emphasise the importance of such
a proposition. Sweden is unique in that it is the first country to pass a law exclusively criminalizing the buyers of commercial sex acts. The Swedish law came into effect in 1999. According to the Swedish government, there has been a “dramatic drop in the number of women in street prostitution” and a decrease in the number of men who buy sexual services.\(^1\)

The Swedish National Criminal Intelligence Service has produced a report, indicating a positive impact of the law criminalising purchasers of sex on reducing the trafficking of persons. Sweden is no longer considered as an attractive destination for trafficking human beings and working in the sex industry in general. The structure of business is becoming too complex and purchasers are becoming very alert of the consequences of being charged – the law clearly works as a deterrent. As a result of the same, traffickers, pimps and, indeed, prostitutes have turned their eye to other countries such as Denmark, Germany, Holland and Spain where the rules are more relaxed for their business to flourish.

Many express a fear that by criminalising purchasers of sex, the industry will be dragged further underground. The fact that prostitution and the trafficking are not visible does not mean that Gardaí do not receive information of what is going on. The biggest obstacle for the Garda Síochána is not lack of information, but the lack of resources in the current economic environment to investigate crimes and ensure that the law is effectively enforced and obeyed by the public.

Even though the general public approved the law in Sweden, there is still resistance within the police and the judicial system to punishing the purchasers of sex acts. Sven-Axel Mansson noted that “the effects of male bonding play a part in creating this situation.”\(^2\) Their actions can be compromised by the fact that men will be far more likely to identify with the

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1 Ministry of Industry, Employment and Communications, Division of Gender Equality, January 2004 Report
buyers of sex then with its vendors. As a result, a change in attitudes needs to happen in male environments, Mansson underlines.³

The Swedish National Criminal Intelligence Service also observed in its report that the judicial system has had a considerate attitude towards purchasers of sexual services. This attitude has been demonstrated by the fact that summons have been sent to their place of work instead of their home. Such actions indicate a certain sympathy within the judicial system concerning the men that are suspected of purchase of sexual services. This is an unusual consideration that aims at protecting the suspect from social consequences that could be the result of his actions.⁴ The issue of “bonding” can cause concerns in Ireland too, considering predominantly male population in the above institutions.

Leaving the offence and its effect apart, it should be noted that when it comes to the sentencing stage in this jurisdiction, there can often be a wide variation in the sentences actually imposed with respect to the same crime, depending on the circumstances of the particular case. O’Malley noted that the lack of discretion would cause a considerable injustice to many civil litigants and to virtually everyone accused or convicted of criminal wrongdoing.⁵ As a result, the greater leniency of sentences in Ireland is evident when compared to some international standards. Furthermore, it would seem that this remains the case even where the Oireachtas has specifically endeavoured to legislate against it by imposing a mandatory minimum penalty.

⁵ Thomas O’Malley, Sentencing: Towards a Coherent System (Round Hall 2011) 42
Section 15A Offences

An example of the provision of leniency in sentencing in Ireland in exchange for information can be seen in Section 27(3)(C) of the Misuse of Drugs Act 1977 in respect of Section 15A offences. Despite the presence of the mandatory minimum sentence under Section 15A, Section 27(3)(C) of the Act, as amended, does leave an element of discretion to the trial judge to impose a lesser sentence in certain circumstances, one of them is material assistance in the investigation of the offence. However, the interpretation of the legislative provisions in Section 27(3)(C) has caused much confusion, especially in cases where the courts have to determine the existence of “exceptional and specific circumstances.” On the one hand, the discretionary element of Section 27(3)(C) leads to uncertainty in the area. On the other hand, not to allow such discretion could lead to great injustices.

Case law suggests that factors such as making a full statement, assistance provided to Gardai in discovering the real suspects and low likelihood that the accused would re-offend are taken into the account by the trial judge. In Renald, for example, the trial judge imposed the sentence of only five years, despite the legislative provision for the mandatory minimum sentence of ten years. On appeal, the last two years were suspended. The mitigating factors highlighted by the court were, inter alia, the cooperation with the Gardaí and absence of previous convictions. Same factors also resulted in the reduction of sentences below the mandatory minimum in Duffy and Hogarty.

6 Misuse of Drugs Act 1977, s 27 (3)(C)(a)(ii)
8 Ibid at 35
9 People (DPP) v Renald (CCA, 23 November 2001)
10 People (DPP) v Duffy (CCA, 21 December 2001)
11 People (DPP) v Hogarty (CCA, 21 December 2001)
In *People (DPP) v Benjamin*\textsuperscript{12}, the applicant has been sentenced to 10 years’ imprisonment by the trial judge, who himself certified the case fit for an appeal on the basis that due to the cooperation given by the applicant to the Gardaí, a major drug dealer was apprehended. The CCA reduced the sentence to five years with the final four years being suspended. It is important to note, however, that in all of the above cases the applicants were mere couriers with no involvement in the drug business and, therefore, it can be said that they had a lesser degree of culpability. However, it can be argued that the “one size fits all” approach is not desirable in the area and further clear judicial and legislative guidance may be required.

Despite the above, it should be remembered that the leniency of the sentence can be appealed by the DPP as in the case of *People (DPP) v Heffernan*.\textsuperscript{13}

There are also a number of non-statutory programmes in Ireland which provide immunity to the perpetrator or witness of the crime.

**Witness Protection Programme**

The Witness Protection Programme was established in 1997 in the aftermath of the murder of Veronica Guerin. It has been subject to a vigorous criticism in recent times and a number of proposals have been made to review it. The majority of those who have entered the programme have left everything behind, including their identities. In most cases, those in the programme have emerged from criminality themselves and used it to avoid imprisonment and as a protection from serious threats by gang members after testifying as a witness in the criminal proceedings against them.

There are no reports produced to date in relation to the operation of the programme and its effectiveness, but these issues are outside the scope of the research. What is important to note

\textsuperscript{12} *Ex tempore*, CCA, 14 January 2002

\textsuperscript{13} *Ex tempore*, CCA, 10 October 2002
is that it operates on a non-statutory basis. However, it is supported by complimentary legislative provisions in Section 40 of the Criminal Justice Act 1999. This section makes it an offence for any person, without lawful authority, to attempt to identify the location or a new identity of a witness which has been relocated under the programme. The use of this programme for a suspected victim or a witness in a human trafficking case is an operational matter for the Garda Síochána.

Purchasers of sex will not fear imprisonment due to the different nature of penalty (fine) and would hardly be willing to be stripped of their identity and relocated abroad, but since prostitution is an organised crime, it can be argued that there may be an unwillingness to provide any information due to fear for personal safety by purchasers in providing intelligence to Gardaí. To conclude, the Witness Protection Programme as it operates at present cannot be extended to the purchasers of sex, but a modified programme which would tailor the particular needs of the witness could be implemented as a policy.

*Cartel Immunity Programme*

Another available programme is the Cartel Immunity Programme, which came into effect on 20th December 2001. Irish Competition law allows immunity from prosecution for criminal offences under the Competition Act 2002 to be granted to whistleblowers. Cartels are by their very nature conspiratorial. The participants are secretive and hard-core cartels are notoriously difficult to detect and prosecute successfully. This programme encourages self-reporting of unlawful cartels by offenders, who are insiders, but not main leaders in the organisation, at the earliest possible stage. It operates with the consent of the Director of Public Prosecutions. Whether or not an individual should be granted immunity is a matter which must be referred by the Garda Síochána to the DPP’s office for advice and, where
The Programme is designed for individuals who are not under investigation yet or have not been charged. The Authority will recommend immunity to the DPP only if the applicant is the first to come forward before the Authority and sufficient evidence is gathered to warrant a referral of a completed investigation file to the DPP. Among other requirements, the applicant must not have coerced another party to participate in the illegal activity and must not have acted as the instigator or have played the lead role in the illegal activity. Under this programme, a failure to provide accurate and truthful information can result in the withdrawal of immunity and extra penalties.

A similar leniency programme in relation to cartels exists in Belgium. The Act on the Protection of Economic Competition, consolidated on the 15th of September 2006, contains a cartel prohibition. The Competition Council, as Belgian Competition Authority, is of the opinion that it is in the general interest to provide leniency to undertakings and associations of undertakings which cooperate with the Belgian Competition Authority. The detection and prohibition of cartels is of a greater importance to consumers and citizens than the fining of the undertakings and associations of undertakings which enabled the Belgian Competition Authority to prosecute and sanction these generally secret practices. The legislator has provided in Article 49 of the Act for a specific legal basis for a Belgian leniency program in cartel cases. It provides for a total immunity from fines or a reduction of fines in exchange for information, subject to a number of requirements, which are similar to those under the Irish Cartel programme. The granting of immunity from fines or reduction of fines to undertakings or associations of undertakings does not protect them against other consequences of their participation in the cartel.

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14 Office of the DPP, Guidelines for Prosecutors

15 Belgian Competition Authority
Conclusion

Provision of immunity or reduction of fines for purchasers of sex should not be viewed as a sign that the Government or other institutions take a lax approach to the matter and do not recognise the seriousness of the offence. To the contrary, the main reason behind the immunity is to obtain sufficient intelligence in order to prosecute the organisers of prostitution (pimps). Of course there are other methods available to Gardaí (surveillance, undercover etc.), but it is the combination of all which may lead to successful prosecutions.

As observed from the programmes available in Ireland and Belgium, the provision of immunity or leniency can be policy based. The structure of existing programmes in Ireland can be tailored to the offence and incorporate elements of both. Because it is a summary offence, the file will not be sent to the DPP and, therefore, it can be a policy based programme operated by an Garda Síochána. Similar to the assessment under the Witness Protection Programme, Gardaí should have a risk assessment of the applicant (purchaser of sex) to evaluate his or her exposure to the risks from providing information to facilitate an adequate protection of a person and his or her identity following the grant of immunity.

The immunity can be full or partial, depending on whether it was voluntary and prompt cooperation and also upon the importance of the information provided. The type of immunity shall be clearly identified in the agreement between the parties. Provision of false or misleading information should result in the withdrawal of immunity, similar to provisions under the Cartel Immunity Programme and an imposition of extra penalties, including publication, which can be provided for in the legislation or apply as a policy.

Despite a growing demand for sexual services and willingness by the Irish purchaser to pay rates in excess of European rates, combined with substantial lack of resources to investigate highly-secretive organised crime of prostitution and human trafficking, a little step forward
made by the Government in criminalising purchasers of sex will undoubtedly become one further obstacle for those who coordinate the business and, who knows, it may be the last underwater stone needed in order to turn the stream in the different direction away from Ireland. The research conducted in those countries where the offences have been enacted, shows very positive results and is worthy of consideration in Ireland.
OPINION

QUERIST: Immigrant Council of Ireland, Nusha Yonkova
AGENT: Lianne Murphy, PILA
ISSUE: Turn off the red light campaign
DATE: 29th November 2011 and supplemented on the 20.1.12

1. I refer to the above matter and thank you for a very helpful consultation on the 27th of October 2011 and also for the invitation to the ‘Turn off the Red Light’ campaign meeting and the various presentation by a number of Scandinavian Police Officers which I found very informative.

2. The ‘Turn off the Red Light’ campaign is an important effort by Ruhama, the ICI and others to criminalize the purchase of sex. I am fully supportive of the objectives of the campaign.

3. I have been asked to deal with two specific issues which we have narrowed down in light of our meeting to the following:

   (i) Is it possible for there to be a procedure in any bill enacted which would allow for phone numbers to be removed from the person who is using the number where that number is being used to link customers with pimps and prostitutes.

   (ii) If it is possible for the State to take away domain names which are used to host websites which promote and offer prostitution services to Irish citizens in Ireland.

4. As discussed at our meeting, these are very novel areas of law and there is, on the Irish statute book, no existing provisions or precedent procedure for such civil enforcement.

5. I believe that the fact that it is novel will mean that it will be an uphill battle to lobby the Government to include the provisions, a skeleton of which I have appended hereto. However, I do not think that is reason not to try. I say this because it appears to be crucial to the operation and supply of prostitutes to Irish residents that the services be offered by way of website and by way of phone.
The ICI have outlined the real impact it could have if it was possible that an application could be made to Court to have a phone number cease operation or removed from a particular pimp and equally how significant it would be if domain names could be shut down.

6. As we also discussed, I think it is very important when you are looking for law reform or the enactment of a new procedure where there is no existing national precedent, that the campaign should provide draft skeleton provisions to the department showing how it could be possible and how a procedure would work. I say this because the novelty of the procedure would mean that the Department Officials will be innately reluctant to create such a procedure. I do not think that narrative text alone will achieve the desired result, though clearly an explanation for the need for such a procedure and the importance of it should be submitted with the skeleton draft. For the best results, the Campaign should, in my opinion, be combining submission papers to the Minister, parliamentarians and the relevant Oireachtas committees together with appended draft provisions which the Campaign wishes to see enacted.

7. I therefore append herewith a draft procedure for both phone numbers and for domain names. It is quite clear in respect of both procedures that quite a bit of work would still have to be done in respect of the procedures and furthermore it appears to me that there would have to be consultation with the various domain name Registrars and Registrars and also with the Commissioner for Communications Regulation which maintains the numbering system for mobile phone numbers in Ireland. The skeleton procedures appended hereto will, if the Campaign is successful in lobbying the Department, change and vary over time and I have drafted them in order to get the ‘ball rolling’ rather than as a definitive provisions.

8. One matter which is important to highlight is that it is important these enforcement procedures are civil in nature. They should not form part of any criminal prosecution and should not be subject to the criminal rules of evidence and the standard of proof associated with criminal procedures. What the ICI want to achieve is a civil procedure on Affidavit before a Judge of the High Court where evidence is presented that a particular domain name or a particular phone number is used in the promotion of prostitution. The reasons for this are varied: criminal procedures are determined by juries, involve oral hearings, are subject to stricter rules of evidence and require proof beyond reasonable doubt. In contrast, the civil procedure drafted herein is by affidavit, determined by a judge alone and subject to the civil standard. I should make clear that the existence of a specialist civil procedure to deal with the mischief of using mobile phones and
domain names to promote prostitution in the State, in no way precludes the Oireachtas from also creating criminal offences for the same or other related acts.

9. The relief sought from the Court is a declaration that that phone number or domain name has been used in the promotion of prostitution and in the case of phone numbers an Order directing Comreg to ensure the ceasing of the operation of that phone number, and in the case of domain names an Order directing the Registry to withdraw the license provided to the licensee operating the domain name.

10. A matter which the ICI should also consider is who should make the application. If it is left to An Garda Síochána, then that brings in its own considerations and dynamics. Alternatively, and the matter which I have inserted provisionally into the draft, is that a registered charity could make the application. The advantage of this is that the registered charity, i.e. Ruhamma or the ICI would have control over the applications being made. There is precedent for this: section 160 of the Planning and Development Act which provides that where there is a breach of the planning laws any person can make an application to the Court for an injunction ceasing that unlawful development.

11. I am not suggesting that the Minister will necessarily find this suggestion palatable but I do think it is something that the ICI should consider the merits of. The alternative is that an authorized officer of a state body be authorized to make the application, but I have struggled to identify the appropriate body other than perhaps the Department of Justice itself. The ICI and Ruhamma would have to consider whether they wish to devote resources to making such applications. However, I would encourage consideration of this proposal because it is Ruhamma and the ICI who are most committed to ceasing the operation of these websites and the phone numbers. That of course is a matter for policy for the ICI and Ruhamma and I can understand if a different view is taken. The real point is that this procedure should remain civil in nature and as such it may be preferably that the procedure not be once commenced by An Garda Síochána, though of course that is an option.

**Mobile phone numbers**

12. I am instructed that a mobile phone number used in the promotion of prostitution can reach sums of €50,000 amongst organizers of prostitution. It is an essential

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1 Statements made in the context of legal proceedings are generally subject to absolute privilege (from defamation) and that being so no exposure to claims for defamation against Ruhamma or ICI arises.
tool and asset in the organization of prostitution in the State. The mobile phone number ranges are assigned to mobile phone operators by the Commission for Communications Regulation. Irish mobile phone numbers are purely a matter for the State.

**Domain names**

13. The use of domain names such as www.escort-ireland.com are crucial to the modern organization of prostitution in Ireland.

14. The websites provided by Querist are all .com, there do not appear to be any .uk or .ie domain names. I set out in summary how domain names operate.

15. The person who registers a name is called a “registrant”. People who want to obtain the use of domain names can do so in websites operated by “registrars”. If a name is free it can be purchased for under €10. A person does not “own” a domain name, rather they obtain a licence to use a domain name. The must pay a renewal fee annually to continue its licence. The significance of this is that a registrant only has a right to use a domain name, and the ultimate ownership remains with, as Counsel understand it, with the Registry.

16. There is a publicly available online database (“the Who Is database”) where the status of each and every domain name including the name of the registrant, their address and email can be consulted.

17. Registrars themselves are accredited by Registries. Registries control top level domain names. The top level domain “.ie” is controlled by the IEDR, the top level domain name “.com” is controlled by a company called Verizon.

18. Currently there is a system operated by Wold Intellectual Property Organization (WIPO) which is a United Nations Organization which permits disputes relating to domain names be resolved. These disputes relate solely to intellectual property disputes. So for example if a person registers the name ‘BertieAhern.com’ a complaint could be brought to WIPO. The remedy which WIPO can grant is the cancellation or transfer or not of the domain name. The accredited Registrars have signed up to this dispute resolution system. This is useful to note because it shows that domain names Registrars, where there is an authoritative and acceptable means of determining issues in respect of domain names, that they will abide by those Orders. It shows that if the Registrars get on board, they may agree to comply with the Orders of the High Court. If the
Department is persuaded to explore the inclusion of such procedures in the Bill they will have to liaise with the Registrars and Registries for the .com and the .co.uk. I have no doubt that when the Campaign’s proposal is put to the Minister, if it is to get off the ground, then the Registrars who operate the top level domain names, ‘ie. and .com’ and so on so forth will have to be notified of the proposal and be allowed to comment on it and their attitude ascertained.

19. I should say that if the Registrars do not agree to abide by the Orders of the Irish High Court, this will raise its own issues in relation to the comity of nations and the jurisdiction of the High Court to make Orders which are effective outside of the jurisdiction of the State. This is a complex legal question and if the Registrars do not accede to the procedure, or submit to the jurisdiction, then we can review this at a later date.

I hope this if some assistance.
Nothing further occurs.

David Dodd B.L.

29th November 2011.
APPENDIX A:- *Skeleton procedure to provide for removal of phone numbers used to promote prostitution.*

1.—(1) Where a mobile phone number has been, is being or is likely to be used in the promotion of prostitution, the High Court may, on the application of the Minister or any registered charity within the meaning of the Charities Act 2010, by Order direct the Commission for Communications Regulation to the cause the cessation of the operation and function of the said phone number.

(2) An application to the High Court for an Order under this section should be by Originating Motion on notice to the person registered as the user of the mobile phone number.

(3) An Order may contain such terms and conditions as the Court deems appropriate to ensure the use of the mobile phone to promote prostitution ceases, including such orders as to the payment of costs.

(4) The Commissioner for Communications Regulation may do anything that the Court considers necessary and specifies in the Order to ensure the cessation of the operation of the telephone number including issue directions to a mobile phone operator to cease the operation and function of the phone number.

(5) A mobile phone provider shall comply with any such Order or direction of ComReg.

(6) The High Court, when considering the matter, may make such interim or interlocutory Order as it considers appropriate.

(7) The Notice of Motion should also be served on the Commissioner for Communications Regulation and the Commissioner for Communications Regulator shall have a locus standi to appear in the proceedings but shall not be required to appear in the proceedings.

(8) ComReg shall, within two weeks of having been requested to do so in writing, inform a person proposing to make an application under this section the name of the person registered as the user of the mobile phone number the subject matter of the intended application.
APPENDIX B:- *Skeleton procedure to provide for removal of domain names used to promote prostitution.*

2.—(1) In this section

“domain name used for the promotion of prostitution” means a domain name that has been used to host an internet site that is being used for the advertising or promotion of prostitution or prostitute related services.

“the registrant” is the person identified in any applicable publicly accessible database of registrations including the Who-Is database as the person who registered the domain name

“registrar” means a domain name registrar which has provided the domain name to the registrant

“registry” means the domain name registry that issued the domain name and operates the relevant top level domain.

(2) This section is limited to domain names which are being used for the promotion of prostitution in the State.

(3) Where a domain name has been, is being or is likely to be used in the promotion of prostitution in the State, the High Court, on the application of the Minister or any registered charity within the meaning of the Charities Act 2010, by Order, may declare that the domain name has been used in the promotion of prostitution, and a declaration that the domain name is a domain name caught by this section and may direct the domain Registry and / or the domain Registrar as the case may be, to direct the withdrawal of the license to use the said domain name from the person to whom the said domain name is registered.

(4) An application to the High Court for an Order under this section should be by Originating Motion on notice to the Registrant and the relevant Registry and Registrar.

(5) The Notice of Motion shall be served on the registrant of the domain name at the postal name and address appearing in the applicable publicly accessible database of domain name registrations or at the email address of contained therein.
(6) The Court shall order the registrant of a domain name used in the promotion of prostitution to cease and desist from undertaking any further activity dedicated to the promotion of prostitution and service of the Notice of Motion in respect of the Registrar or the Registry of the relevant domain name should be at the postal or email address of the said Registrar or Registry as the case may be.

(7) In proceedings under this act Court may Order the Registrar or the Registry to cancel or transfer the domain name to the Minister or transfer the domain name to the Applicant.

(8) (a) For the purpose of this section, a domain name is used within the State when the said domain name hosts an internet site which promotes prostitution directed to residents in the State.

(b) For the purpose of determining whether an internet site promotes prostitution directed to residents in the State, a Court may consider, among other indicia, whether:

(i) the internet site is advertising prostitutes operating in the State
(ii) promoting prostitution to users located in the State;
(iii) The site provides a means or information to purchasers of prostitution services to obtain those services in the State
(iv) the domain name itself is connected to the State.

(7) The Registrar and Registry shall have a locus standi to appear in the proceedings but shall not be required to appear in the proceedings.
Pro Bono Request from PILA for the Immigrant Council of Ireland

Research Topic point 5 of referral memo - Cross border Legislation:

To research the legislative position in Northern Ireland in relation to the purchase and selling of sex.

Introduction

In order for the ICI to consider the possibility of mobile cross border purchasing of sex with regard to differing legal sanctions either side of the border, I have been asked to determine what the legislative position is in Northern Ireland with regard to the purchasing and selling of sexual services. I have endeavoured to consolidate the current law incorporating the most recent changes to the law of prostitution in Northern Ireland wrought by the (UK) Policing and Crime Act 2009.

1. Brief chronology of recent legislation on prostitution laws in Northern Ireland¹:

- Sexual Offences Act 2003 (“the 2003 Act”)
- Sexual Offences (Northern Ireland) Order 2008 (“the 2008 Order”) repealed Ss. 15 to 24, 47 to 54, 66 to 72, 78 and 79 of the 2003 Act and introduced a new Part 5 into the 2008 Order dealing with offences under the heading of Prostitution. It became operational on the 2nd February 2009.²
- Article 15 of the Policing and Crime Act 2009 inserted a new Article 64A into the 2008 Order of a strict liability offence of paying for sexual services of a prostitute subjected to force etc. in Northern Ireland. This Article 64A was commenced on the 1st April 2010.³
- Article 20 of the Policing and Crime Act 2009 substituted a single offence of soliciting for Articles 60 & 61 of the 2008 Order which previously dealt with the offences of kerb crawling and persistent soliciting. This provision also came into force on the 1st April 2010.⁴

¹ See appendix of consolidated legislation
² S.I.2008/1769 (N.I.2)
³ S.I. 2010/507 (Commencement Order No.4) Not to be confused with the new Article 53A inserted by S.14 of the 2009 Act into the 2003 Act. This Section 53A is exactly the same offence and relates to England and Wales only.
⁴ S.I. 2010/507 (Commencement Order No.4)
2. **The Sexual Offences Act 2003**

The 2003 Act laid the modern foundation of the laws regarding prostitution and sexual offences in the United Kingdom and in Northern Ireland and largely replaced the Sexual Offences Act 1956. Part II of the Act also consolidated the provisions of the Sex Offenders Act 1997 on registration of sex offenders and protective orders. These provisions generally apply throughout the United Kingdom including Northern Ireland. The other provisions of the 2003 Act that remain in force under Northern Irish law relate *inter alia* to brothel keeping and trafficking offences.

3. **Sexual Offences (Northern Ireland) Order 2008**

The Sexual Offences (Northern Ireland) Order 2008 was approved by Parliament in June 2008 and came into force on 2 February 2009. It was the first major overhaul of sexual offences law in Northern Ireland. Part 7, Article 78 of the 2008 Order repealed certain Articles of the 2003 Act, including offences regarding the abuse of children through prostitution and pornography and offences under the heading of prostitution which included soliciting, causing or inciting or controlling prostitution for gain.

4. **Current law in Northern Ireland regarding the purchasing and selling of sex:**

   **Article 64A - Paying for sexual services of a prostitute subjected to force etc.**

   4.1 A new offence of paying for sexual services of a prostitute subjected to force etc. was inserted into the 2008 Order pursuant to Article 15 of the Policing and Crime Act 2009 in the United Kingdom and came into force on 1st April 2010:

   "**64APaying for sexual services of a prostitute subjected to force etc.**
   
   (1) A person (A) commits an offence if—
   
   (a) A makes or promises payment for the sexual services of a prostitute (B),
   
   (b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and
   
   (c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).
   
   (2) The following are irrelevant—
   
   (a) where in the world the sexual services are to be provided and whether those services are provided,
   
   (b) whether A is, or ought to be, aware that C has engaged in exploitative conduct."
Research for PILA/ICI by Suzanne Fleury BL

(3) C engages in exploitative conduct if—

(a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or

(b) C practises any form of deception.

(4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

4.2 Article 64A specifically criminalises the purchaser of sexual services introducing a new strict liability offence where it is irrelevant if the purchaser has knowledge or ought to be aware that the prostitute has been subjected to force, exploitative conduct, deception or threats by a third party in order to be convicted of the offence. It is a summary only offence and a conviction will result in a maximum fine of £1,000.5 A person convicted of this offence will not be required to register as a sex offender nor subject to notification procedures as per Part II of the 2003 Act.

Legal Analysis

4.3 A significant limitation in prosecuting this offence arises where a proof of the offence is that the prostitute has been subjected to force etc. At first blush this may seem straightforward but to bring home a conviction the prosecution requires evidence that the prostitute has been subjected to force as per the terms of the Article. There is unsurprisingly no presumption in the Article to assist in this regard as it is doubtful that such a presumption would stand up under legal scrutiny given the summary nature of the offence.

4.4 At a recent conference hosted by the ICI and Ruhama members of police forces from various jurisdictions were in attendance to discuss different policing and legislative approaches to eradicating prostitution and human trafficking. Members of the PSNI present expressed their dissatisfaction with the introduction of this offence stating that as far as they were aware no prosecutions have been mounted in Northern Ireland to date since it came into force in April 2010.6 Aside from the difficulty of persuading the prostitute to give evidence to begin with, a resources issue emerges where prostitutes if prepared to give evidence of coercion might require police protection or have to go into protective custody for indefinite periods of time if in fear of reprisal from traffickers or pimps. From a costs perspective, they were of the view that utilising those kinds of resources in pursuit of a summary conviction

5 Fines for summary offences in Northern Ireland are determined by the standard scale pursuant to section 37 of the Criminal Justice Act 1982.

6 This author does not have access to empirical data in this regard.
that will at its height result in a £1,000 fine is hard to justify. Therefore the danger is that it while it appears to be a novel departure on the statute books attempting to protect vulnerable victims of trafficking; it may end up merely paying lip service to criminalising those who purchase sex and will be of no real assistance in combating the problem it was designed to alleviate. In attempting to impede the demand for trafficked women on the ground by stigmatising purchasers of sex who may fear being caught and shamed; differentiating between a prostitute that has been “subjected to force” and one that has not is potentially problematic from a prosecutorial perspective.

5. **Articles 60 & 61 of the 2008 Order - Soliciting**

5.1 Article 20 of the Policing and Crime Act 2009 substituted a single offence of soliciting simplifying the position regarding the previous offences of kerb crawling and persistent soliciting removing the need in the 2003 Act for there to be persistent behaviour of soliciting or causing a nuisance before an offence is committed. This is now a much easier offence to prosecute but may not have any real impact on the wider issue of trafficking as anecdotal evidence and research of organisations such as Ruhama and the ICI report of the ever growing number of brothels in Northern Ireland. The offence of soliciting under this Article must occur in a public place (similar to soliciting offences in this jurisdiction). There is no distinction in the Article regarding prostitutes subjected to force unlike Article 64A of the 2008 Order.

6. **Selling sexual services**

6.1 Pursuant to Article 59 of the 2008 Order it is an offence for a person to persistently loiter or solicit in a street or other public place for the purpose of offering services as a prostitute. Conduct is persistent if it takes place on two or more occasions in any period of three months. It is a summary only offence and attracts a fine of £500. It is not illegal for a prostitute to sell sexual services in private in Northern Ireland.

**Conclusion:**

With the introduction of Article 64A into Northern Irish Law in April 2010, prima facie there is now an offence that criminalises a person who makes or promises payment for sex from a person subjected to force. As we know there is no such offence on the statute books in this jurisdiction. If anecdotal evidence is to be believed and in identifying some of the potential pitfalls in prosecuting the offence, it seems that the introduction of Article 64A may be
nothing more than a paper tiger to those who purchase sex from prostitutes in Northern Ireland thereby failing to act as any deterrent at all. While falling outside the scope of this research, it occurs to this writer that the gathering of official empirical data would be necessary to properly consider how effective the introduction of the offence has been in Northern Ireland and whether there would be any value in enacting a similarly constructed offence in this jurisdiction for the sake of harmonising the law on both sides of the border.

Draft Consolidation of Legislative Provisions in Northern Ireland re Prostitution: 7

Part 5 of the Sexual Offences (Northern Ireland) Order 2008 as amended introduced the below provisions under the 2008 Order:

Part 5 of the Sexual Offences (Northern Ireland) Order 2008 as amended:

PART 5 PROSTITUTION

Interpretation of this Part

58.—(1) The following provisions apply for the purposes of this Part.

(2) “Prostitute” means a person (A) who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to A or a third person; and “prostitution” is to be interpreted accordingly.

(3) In paragraph (2), “payment” means any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount.

(4) “Gain” means—

(a) any financial advantage, including the discharge of an obligation to pay or the provision of goods or services (including sexual services) gratuitously or at a discount; or

(b) the goodwill of any person which is or appears likely, in time, to bring financial advantage.

(5) Conduct is persistent if it takes place on two or more occasions in any period of three months.

(6) “Motor vehicle” has the same meaning as in the Road Traffic (Northern Ireland) Order 1995 (NI 18).

(7) For the purposes of Articles 59 to 61—

(a) “street” includes any bridge, road, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and

7 This is not an official legislative consolidation and any errors or omission are the author’s own.
(b) the doorways and entrances of premises abutting on a street (as defined in sub-paragraph (a)), and any ground adjoining and open to a street, shall be treated as forming part of the street.

**Loitering or soliciting for purposes of prostitution**

59.—(1) A person commits an offence if he persistently loiters or solicits in a street or other public place for the purpose of offering services as a prostitute.

(2) A person guilty of an offence under this Article shall be liable on summary conviction—

(a) to a fine not exceeding level 2 on the standard scale, or

(b) for an offence committed after a previous conviction, to a fine not exceeding level 3 on that scale.

(S.20 of the UK Policing and Crime Act 2009 inserted a new Article 60 for):

**Soliciting: Northern Ireland**

(For Articles 60 and 61 of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2)) (kerb-crawling and persistent soliciting) substitute—)

“60 Soliciting:

(1) It is an offence for a person in a street or public place to solicit another (B) for the purpose of obtaining B's sexual services as a prostitute.

(2) The reference to a person in a street or public place includes a person in a vehicle in a street or public place.

(3) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

(End of substituted section)

**Exploitation of prostitution**

**Causing or inciting prostitution for gain**

62.—(1) A person commits an offence if—

(a) he intentionally causes or incites another person to become a prostitute in any part of the world, and

(b) he does so for or in the expectation of gain for himself or a third person.

(2) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

**Controlling prostitution for gain**
63.—(1) A person commits an offence if—

(a) he intentionally controls any of the activities of another person relating to that person's prostitution in any part of the world, and

(b) he does so for or in the expectation of gain for himself or a third person.

(2) A person guilty of an offence under this Article is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

**Keeping a brothel used for prostitution**

64.—(1) A person commits an offence if he keeps, manages, or acts or assists in the management of, a brothel to which people resort for practices involving prostitution (whether or not also for other practices).

(2) A person who commits an offence under this Article shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding 7 years.

(3) A conviction under this Article shall be taken into account under section 3 of the Criminal Law Amendment Act (Northern Ireland) 1923 (c. 8), in the same way as a conviction under section 13 of the Criminal Law Amendment Act 1885 (c. 69).

(S.15 Policing and Evidence Act 2009 inserts a new Article 64A for):

(Paying for sexual services of a prostitute subjected to force etc: Northern Ireland

After Article 64 of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 1769 (N.I. 2)) insert—)

“64APAYING FOR SEXUAL SERVICES OF A PROSTITUTE SUBJECTED TO FORCE ETC.

(1) A person (A) commits an offence if—

(a) A makes or promises payment for the sexual services of a prostitute (B),

(b) a third person (C) has engaged in exploitative conduct of a kind likely to induce or encourage B to provide the sexual services for which A has made or promised payment, and
(c) C engaged in that conduct for or in the expectation of gain for C or another person (apart from A or B).

(2) The following are irrelevant—

(a) where in the world the sexual services are to be provided and whether those services are provided,

(b) whether A is, or ought to be, aware that C has engaged in exploitative conduct.

(3) C engages in exploitative conduct if—

(a) C uses force, threats (whether or not relating to violence) or any other form of coercion, or

(b) C practises any form of deception.

(4) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”

Sexual Offences Act 2003 – provisions still in force after the 2008 Order came into force:

1. Amendments relating to prostitution
   1. 55. Penalties for keeping a brothel used for prostitution
   2. 56. Extension of gender-specific prostitution offences

2. Trafficking
   1. 57. Trafficking into the UK for sexual exploitation
   2. 58. Trafficking within the UK for sexual exploitation
   3. 59. Trafficking out of the UK for sexual exploitation
   4. 60. Sections 57 to 59: interpretation and jurisdiction
   5. 60A. Forfeiture of land vehicle, ship or aircraft
   6. 60B. Detention of land vehicle, ship or aircraft
   7. 60C. Sections 60A and 60B interpretation
Submission to the Joint Oireachtas Committee on Justice, Equality and Defence

Review of Legislation on Prostitution 2012
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Executive Summary

Ruhama is a Dublin based NGO, established in 1989, which works on a national level with women affected by prostitution. It is this experience of working for over 22 years at the front line with thousands of women affected by prostitution which primarily informs the opinions and recommendations outlined in this submission.

An introduction to Ruhama, its mission and an outline of its broad range of services to women affected by prostitution will be outlined in the main submission.

We begin our submission with the premise that prostitution is harmful and constitutes a violence against those prostituted, most notably women, who make up the largest percentage of those sold in the sex trade. This understanding of prostitution is based on Ruhama’s experience of working with women affected by prostitution and supported by a vast amount of research both nationally and internally. As well as the harm to the individual, prostitution also has a harmful effect socially, culturally and globally.

This submission responds to a number of issues/questions highlighted in the Department of Justice and Equality Discussion Document on prostitution.

When speaking about those in prostitution; Ruhama’s submission regularly refers to women, this reflects its front line work and client group. Ruhama wants to acknowledge that any recommendations outlined in this submission relate to all persons in prostitution and is gender neutral.

The Issue of Choice

For the majority of women, prostitution is rarely a freely-entered career choice. Women who come to Ruhama seeking help in exiting prostitution, often express their desire to have a ‘normal’ life or a ‘normal’ job; it is not positive career choice for the majority of prostituted women. Prostitution needs to be set against a backdrop of abuse, poverty, low self-esteem, debt, addiction, and few, if any, other survival options. The question of consent or choice needs to be framed, not only in terms of the degree of freedom involved but also in terms of the range of choices open to a particular individual.
Prostitution and Sex Trafficking Cannot Be Separated
The commercial sex trade in Ireland remains very active and highly organised. It is within this thriving sex trade that sex trafficking exists. It is therefore impossible to separate sex from organised prostitution because the same mechanisms operate within both – victims of trafficking are advertised in the same places as other forms of commercial sexual exploitation, and the same degree of fraud is used by primps in advertising women’s age, nationality etc. The movement of women to ensure ‘variety’ for the buyers of sex applies to both trafficked and non-trafficked women.

Furthermore, the background of those women and girls trafficked strongly echo those women who otherwise find themselves in prostitution. This background creates situations of vulnerability, which make the women more susceptible to traffickers.

HIV/AIDS and Prostitution Legislation
Ruhama asserts that prostitution laws following the Swedish example of criminalising the purchase of sex while decriminalising those prostituted are compatible with an effective and appropriate response to the prevention and treatment of HIV/AIDS in Ireland. Specific issues relating to education, services relating to sexual health and attitudes towards those in prostitution are dealt with in the main submission.

Legalising/Regulating Prostitution Benefits Pimps/Traffickers/Profiteers of the Sex Trade – NOT Prostituted Persons
The call to legalise or regulate prostitution can sometimes come from a genuine concern for the welfare of the women involved. The assumption is that if prostitution was legalised it would lessen both the harm to those prostituted and the involvement of criminal gangs.

In this submission, we present evidence from jurisdictions where regulation and legalisation have been in place for over a decade and which demonstrate that aspirations to make prostitution a safe legitimate form of work for those prostituted were ill founded.

Complete Decriminalisation of the Sex Trade has a Similar Effect to Legalisation
While Ruhama advocates the decriminalisation of the selling of sex; in this submission we outline serious concerns with the complete decriminalisation of prostitution. In 2003, New Zealand introduced the decriminalisation of prostitution; including the selling and buying of sex, and brothel keeping. There is evidence to show that some of the concerns regarding the New Zealand example of decriminalisation reflect the same issues that arise in the context of legalised prostitution, such as:
- The normalisation of prostitution which results in the dramatic increase in prostitution.
- Prostitution is defined as legitimate work and an acceptable job for young poor women.
It has done little to reduce the exploitation and danger for those prostituted.

It is difficult to challenge brothels even if they are located near schools or in residential neighbourhoods.

With the increased legitimacy of brothels, it is increasingly difficult for police to ensure no exploitation is taking place.

Funding reduced for services supporting women who want to exit prostitution.

**Complete Criminalisation of Prostitution is NOT a Positive Solution**

Ruhama does not recommend the complete criminalisation of prostitution and believes Ireland needs to legislate to recognise the vulnerability of prostituted people. In States where all aspects of prostitution are criminalised, including the seller, it tends to be overwhelmingly those prostituted rather than their buyers who are arrested and punished.

Ruhama do not advocate for such a legal approach which in effect criminalises those in prostitution (including victims of trafficking and children) for their own exploitation.

**Criminalise Buying of Sex and Decriminalise Selling of Sex: The Swedish Example**

Any prostitution legislation which aims at curbing the growth in the Irish sex trade and addressing the involvement of criminal gangs needs to take into consideration the pivotal role of the sex buyer in fuelling the market in the sex trade.

In this submission we recommend Ireland follows the Swedish example of legislation which criminalises the buying of sex and decriminalises the selling of sex. In Sweden, the criminalisation of the buying of sex counteracted the normalisation of prostitution, making it socially unacceptable for anyone to buy another person for sex. This has resulted in a decrease in the overall sex trade and sex trafficking.

**Update Prostitution Legislation to Reflect Changes in Organised Prostitution**

There have been many changes in the Irish sex trade since the enactment of the Criminal Law (Sexual Offences) Act 1993, most notably: - how prostitution is organised, the profile of the women involved and the large scale profits made by criminal gangs. A range of recommendations which would update the 1993 Act are outlined in this submission.

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Role of Telecommunications in Organised Prostitution

The use of modern telecommunications (internet/mobile phone) by pimps and traffickers in the advertisement and organising of prostitution has contributed to the large scale growth in the Irish sex trade over the last decade. Its use offers anonymity to pimps and traffickers who no longer need to be on site to operate their crimes and consequently, makes traditional forms of policing organised prostitution redundant. This submission outlines a range of recommendations to equip Gardaí in the policing of organised prostitution, giving the significant role of telecommunications.

Recommendations: Prostitution Legislation

1  Update Current Prostitution Legislation - The Criminal Law (Sexual Offences) Act 1993
   - Section 1 – Interpretation
   - Section 9 – Organisation of prostitution
   - Section 11 – Brothel keeping

2  Criminalise the Purchase of Sex

3  Address the Role of Telecommunications in Advertising and Organising Prostitution
   - Advertising Prostitution on the Internet - Criminal Justice (Public Order) Act 1994
   - The Use of Mobile Phones in Organised Prostitution

4  Anonymity in Respect of Vulnerable Witnesses

5  Spent Convictions

Recommendations Regarding the Need to Sustain and Enhance Supports to those Affected by Prostitution
Ruhama Main Submission to the Joint Oireachtas Committee on Justice, Equality and Defence: Prostitution Legislation in Ireland

This submission by the voluntary agency Ruhama makes recommendations relating to Ireland’s prostitution legislation. These will include a recommendation to criminalise the purchase of sex, while recognising that those ‘selling’ in prostitution are vulnerable persons who should not be criminalised. The submission also highlights recommendations relating to other aspects of the prostitution laws which, Ruhama believes, will additionally assist in the combating of organised prostitution and sex trafficking.

Also in this document are responses to a number of issues/questions highlighted in the Department of Justice and Equality Discussion Document on prostitution, which covers a large amount of research, with different positions and opinions. Ruhama will respond to those questions which pertain in the main, to the implications for an introduction in Ireland of a law following the Swedish example.

1. Introduction to Ruhama

Ruhama (www.ruhama.ie) is a Dublin based NGO, working on a national level with women affected by prostitution, since 1989. While Ruhama began its work responding to the needs of women involved in street-based prostitution, it has developed and adapted its services over the years, to meet the various and often complex needs of women affected by prostitution.

Women Accessing Ruhama’s Services Today Include:
- those currently involved in prostitution (street-based or indoor)
- those exiting prostitution
- those with a history of prostitution and
- victims of sex trafficking.

Ruhama’s Mission Statement
- to reach out to and provide support services to women affected by prostitution and other forms of commercial sexual exploitation
- based on individual need, to offer assistance and opportunities to explore alternatives to prostitution
- to work to change public attitudes, practices and policies, which allow the exploitation of women through trafficking and prostitution.
Values Informing Ruhama’s Work

- being non-judgmental
- placing a high value on equality, inclusivity, cultural diversity, dignity and respect
- affirming every woman's right to society's protection and respect
- commitment to learning and to continual service improvement
- accountability to funders and to the women we work with

Services Offered by Ruhama

- Individual casework support and advocacy
- Out of hours emergency response
- Provision of accommodation to vulnerable women in emergency situations
- Provision of one to one and group training and development opportunities
- Support into mainstream training and/or employment
- Support with resettlement (including social welfare, budgeting and tenancy agreements)
- Mobile Street Outreach in Dublin’s “Red Light” areas
- Outreach service to other key agencies/services
- Emotional and psychological support including access to counselling
- Practical support (material needs) in certain circumstances
- Interpretative support
- Referral to other key agencies that can offer supports
- Delivery of Training and awareness sessions to groups on the issue of prostitution and trafficking
- Advocating and campaigning on the issue of prostitution, including trafficking to raise awareness and support positive change in social attitudes and policies, and minimise the ongoing harm to women and girls through the sex industry

It is the experience of working at the front line with thousands of women affected by prostitution for over 22 years which primarily informs the recommendations outlined in this submission.

When speaking about those in prostitution; Ruhama’s submission regularly refers to women, this reflects its front line work and client group. Ruhama wants to acknowledge that any recommendations outlined in this submission relate to all persons in prostitution and is gender neutral.
2. **Prostitution as Harmful and A Violence Against Women**

Ruhama firmly believes that prostitution is both intrinsically harmful and violent to the women involved.

This understanding of prostitution as harmful is based on over two decades of working as a front line service provider to women affected by prostitution and is supported by a vast amount of research, both nationally and internationally.

As well as the physical harm and damage, there is the emotional and psychological harm of being sexually objectified. Being in prostitution erodes self-esteem, self-confidence, can cause depression and symptoms of post traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other negative physical consequences.\(^3\)

As well as the harm to each individual, there is the social, cultural and global impact – the damage to the social position and perception of women both nationally and globally, the proliferation of sex tourism and trafficking and the normalisation of all forms of violence against women. The sexual exploitation of prostitution is harmful to all women. If one woman is perceived as being for sale, the implication is that all women and girls are potentially for sale and this directly undermines the potential for gender equality.

International studies show that women in prostitution experience extremely high levels of violence such as beatings, rape, sexual assault, terrifying and degrading treatment.\(^4\) They face constant subjection to humiliations of all kinds, theft, as well as the health risks from very frequent, rough sex and also from being sometimes required to have unprotected sex. Sexual, emotional and physical violence is a common experience for women in prostitution.\(^5\) The same experiences are reported across the globe, regardless of culture or race.

It is not claimed that all men who use women in prostitution are explicitly violent but, essentially, what they purchase is the power to be violent with the likelihood that there will be no sanctions. Even when the violence does not occur, the threat and the lack of protection are always there. The women that Ruhama work with report hypervigilance and constant tension due to the perpetual risk of the unknown that might occur when responding each day to knocks at the door from strangers who have paid to have sex with them. They also disclose feelings of isolation – from other people and from the rest of society; panic attacks, depression, and suicidal feelings.

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\(^3\) Kelleher et al 2009, Lawless 2005  
The experiences of the women in the research published by Ruhama in 2005, called ‘Next Step Initiative’ established that the effects of prostitution are long term and endure beyond their active involvement in prostitution. It also found that the survival and defence mechanisms, created by the women while involved in prostitution, are themselves the cause of serious long-term effects.\(^6\)

Dissociation, the psychological process of banishing traumatic events from consciousness, is an emotional shutting down used by women in prostitution, similar to the experience of women being raped, battered, and among prisoners of war who are being tortured.\(^7\)

Women with no history of drug or alcohol abuse prior to their involvement in prostitution report resorting to drugs and alcohol to deaden the psychological trauma of prostitution.

### 3. The Issue of Choice

Entry into prostitution for women is in the main, rarely a freely-entered choice and needs to be set against a backdrop of abuse, poverty, low self-esteem, debt, addiction and few, if any, other survival options.

For the vast majority, prostitution is not a positive career choice. It does not equate to deciding to enter a role based on genuine interests, talent and ultimate work satisfaction. It is, rather, a condition either forced upon individuals by third parties or selected as the best of a bad bunch of options.\(^8\)

The reality is that women and girls do sometimes report making a decision to enter prostitution. However, the degree of meaningful choice involved for the majority is dubious, given the powerful social forces of poverty, violence and inequality that constrain this choice. The following are common factors which create a ‘push/pull’ into prostitution:

- Poverty
- Debt – small or large amounts
- History of abuse and/or severe neglect as a child or youth
- Institutionalisation as a child (in care)
- Partner abuse
- Homelessness
- Lack of family/social supports
- Addiction

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\(^6\) Lawless (2005)  
\(^7\) Farley (2003)  
\(^8\) O’Connell Davidson, J., (1998) p.198
Grooming/coercion (family, partner, “friend”)  
Note: the above factors reflect a background very similar to the profile of victims of trafficking.

For many, if not most women, their so-called choice is preceded by and conditioned on earlier traumatic abuse and an interplay of personal and economic factors. Factors such as those noted above all combine to make the question of free choice almost meaningless. The question of consent or choice needs to be framed, not only in terms of the degree of freedom involved, but also in terms of the range of choices open to a particular individual, i.e. a choice between what options? Further, the harsh experience of many women is that they do not realise how hard it is to leave prostitution until it is too late.9

4. **Prostitution and Sex Trafficking Cannot Be Separated**

The backgrounds of those women and girls trafficked strongly echo those of women who otherwise find themselves in prostitution. This is what creates their vulnerability to being trafficked in the first place. Traffickers completely capitalise and exploit women’s hope for a better life by means of:

- Targeting of pre-existing vulnerability (lack of family support and/or education, poverty, abuse)
- Abduction
- Deception: “new better life”
- Debt bondage
- Juju/Witchcraft
- Repeated assault: “breaking down”
- Threats to woman/woman’s family
- Lies (about police/laws/other women in the brothel)
- Deportation threat
- Organised criminality – crossing borders

The commercial sex trade in this country remains very active and highly organised. There are numerous criminal gangs organising and profiting from the prostitution of vulnerable women and girls right across the island of Ireland in urban and rural settings. While Ruhama continue to work with significant numbers of Irish women, the majority of those exploited in the indoor sex

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trade are migrant women, and this is reflected by the fact that in 2011 Ruhama supported women of 36 different nationalities – an increase from 31 in 2010. This small island remains a destination for traffickers, pimps and procurers from all corners of the globe. For the women and girls, far from home, isolated and often highly controlled or literally coerced through trafficking, prostitution itself is an intrinsically dangerous and damaging experience.

There are cases where victims of trafficking are being forced into prostitution in brothels where there are women who are in prostitution and do not fit the narrow definition of a victim of trafficking. The pimp and the trafficker are one and the same in these cases. Their attitude towards those in the brothel is arguably equally dehumanising and controlling: these women and girls are just commodities.

To separate trafficking out from organised prostitution defies logic, given the mechanisms by which the sex trade operates. Victims of trafficking are advertised in the same places as all other forms of the commercial sex trade, not in some separate corner of the internet restricted to trafficking. The same degree of fraud is used by pimps in presenting women’s ages, nationalities, sexual availability – and also their movement to ensure ‘variety’ across the country in respect of trafficked and ‘non-trafficked’ women alike. This was amply highlighted in recent RTE investigations.

A cohesive approach to organised prostitution is also the means by which victims of trafficking can be identified and assisted. Equally, the inherent harms and risk of abuse outlined above affects those in prostitution across the board.

5. HIV/AIDS and Prostitution Legislation

Ruhama assert that prostitution laws following the Swedish example of criminalising the purchase of sex while decriminalising those prostituted are compatible with an effective and appropriate response to prevention and treatment of HIV/AIDS in Ireland.

In Chapter 4 of its Discussion Document (The Requirements of International Organisations), the DJE draws specific attention to The report of the UNAIDS Advisory Group on HIV and Sex Work (Dec 2011) when considering legislation in response to prostitution in Ireland.

While Ruhama accept entirely the need to give due regard to population health issues and also the human rights of those involved in prostitution, there are a number of points in relation to this report, considered in the Irish context, which merit a response.

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RTE Prime Time: ‘Profiting from Prostitution’, February 2012
**Report Disclaimer:** It is important to note in the first instance that this report carries the following disclaimer: “This document does not necessarily represent the views of all members of the Advisory group on HIV and sex work, nor the stated positions, decisions or policies of the UNAIDS Secretariat or any of the UNAIDS cosponsors.” It does not therefore reflect official UNAIDS or UN policy on HIV and prostitution.

**Starting Position:** The members of the UNAIDS Advisory Group on HIV and Sex Work have a clear record of taking a pro-prostitution position, in particular the Global Network of Sex Work Projects. There is no representation from groups working with those in the sex trade who take an abolitionist approach to prostitution.\(^{11}\) Therefore, a presumed bias towards a pro-prostitution position should be expected.

This bias is evident in the report itself with persistent reference to pimps as ‘managers’ and the extraordinary reference at the bottom of page 17, which refers to victims of trafficking being supported to become more ‘independently’ involved in prostitution. This demonstrates that the report starts from the premise that prostitution in and of itself is not harmful. It is suggesting that even those who have been most horrifically abused within the sex trade can unambiguously transfer their experience of multiple rape in the sex trade to a more positive one of freely selling their bodies for sex ‘with support from their fellow sex workers, their clients, their intimate partners and their managers or agents’ (p.17). This report ignores and sidesteps the massive trauma of trafficking on the person, the broader physical and emotional health consequences of involvement in prostitution and the desire on the part of 90% of those in prostitution (including those not trafficked) to exit.\(^{12}\)

**The Importance of Context:** it is important to acknowledge that the global combating of the HIV/AIDS pandemic is vital and should be taken very seriously. Education and prevention, and where required, treatment for all vulnerable groups is essential. However, remembering the context of considering the law relating to prostitution in Ireland is critical if one is to consider the actual value of this report to the discussion.

The report of the UNAIDS Advisory Group on HIV and Sex Work, highlights a speech UN Secretary General Ban Ki-moon made to the International AIDS conference in 2008 in which he called for laws to protect those affected by prostitution, drug use, and homosexual sex among others. “...In most countries, discrimination remains legal against women, men who have sex with men, sex workers, drug users, and ethnic minorities,”...“This must change. ...In countries without laws to protect sex workers, drug users, and men who have sex with men, only a fraction of the population has access to prevention.”

\(^{11}\) ‘Pro-prostitution’ is taken to mean a position which favours the legitimising, regulating and legalising of all aspects of the sex trade. ‘Abolitionist’ is taken to mean a position that regards all forms of prostitution as intrinsically harmful and aims to eliminate it as a form of exploitation, particularly of women and girls.

\(^{12}\) Farley et al 2003
Firstly, while this report of the UNAIDS Advisory Group on HIV and Sex Work purports to focus on “Sex Work & HIV”, in fact the recommendations made largely draw on those made for all categories of vulnerable groups including intravenous drug users and men who have sex with men.

Secondly, most examples of initiatives for HIV prevention in prostitution in this report focus on countries with a far higher prevalence of poverty, HIV/AIDS and/or far lower availability of services and health care for the general population overall (e.g. Kenya, Brazil, India). In Ireland, the rate of HIV among the adult population (19-49 years) is 0.2%, compared with 6.7% in Kenya.\footnote{CIA World factbook: HIV AIDS adult prevalence 2011}

**Drug Users:** In Ireland there are comprehensive schemes and health services available to support and offer health services to those suffering with drug misuse.

**Men Who Have Sex with Men:** Homosexuality is not criminalised in Ireland, and it is in jurisdictions where this is the case that are highlighted by the UNAIDS group as being those that put men who have sex with men at greater risk of contracting HIV.

It is important also for the purpose of this discussion to make a clear distinction between the rights of men who have sex with men engaging in consensual same-sex relations, and the experience of being sexually exploited in prostitution, which has no bearing on the sexual orientation of those prostituted, whether male or female.

**Prostitution:** In Ireland, sexual health screening, including for HIV for those in prostitution is available free and confidentially through the HSE Women’s Health Service (WHS) and has been for over 20 years. Indeed, the whole population irrespective of ethnic status can avail of free testing in GUM (Genito Urinary Medicine) clinics nationally. Equally, the prevalence of HIV among those in prostitution is far lower than the very high risk categories identified in Asia and other countries. The HSE WHS indicated on enquiry that the numbers screened through their services with HIV are extremely low. Additionally, in nearly every case where a positive screen is found the cause of infection is more likely to be either as a result of intravenous drug use (IDU) or a pre-existing infection contracted in sub-Saharan Africa, rather than directly through contact with an infected sex buyer in Ireland.

**General Support for Those with HIV/AIDS:** There are a number of well established NGOs in Ireland operating comprehensive support services for those living with HIV/AIDS in Ireland which can be accessed by individuals who fall into any of the above categories.
Mandatory Testing: for HIV/AIDS, which can be discriminatory and repressive of the human rights of at-risk groups and is a punitive approach used in other countries, is not policy in Ireland.

Therefore, many of the contentions by this report do not have a significant bearing when considering both services available to at-risk groups and discriminatory practices that impact negatively on their ability to access sexual health services in an Irish context.

Education/Attitudes to Condom Use: Recommendations for education of men in changing attitudes to condom use are to be welcomed, but should not, and arguably cannot be restricted to sex buyers. Such initiatives must (and generally do) target all men who are sexually active, who can be classed as ‘potential buyers’. The UNFPA Broad Activity Achievement report, referencing the work of UNAIDS is clear that this is the approach taken, rather than initiatives for actual acknowledged sex buyers. The logistics of ‘engaging’ sex buyers as a separate cohort is not feasible – especially as the majority are married and unlikely to engage as a part of this categorised group. The greatest barrier to condom use is the men who refuse to use them – whether with those in prostitution or other sex partners. The report of the UNAIDS Advisory Group on HIV and Sex Work expounds at length on the violence demonstrated towards those in prostitution by police, but alludes only vaguely to changing buyers ‘attitudes’ towards sex workers to encourage condom use. No allusion is made to potential violence/coercion by buyers themselves and the impact that this has on women’s ability to negotiate condom use.

For women in prostitution, safe sex/reproductive health practices are encouraged by many of the services specifically accessed by them through both condom distribution and sexual health awareness sessions.

A law that does not criminalise those ‘selling’ in prostitution but does target those who buy sex should not impact on the availability or access to either sexual health services or education initiatives because these are already in place for those in prostitution – although they could be enhanced across the country. Any education initiatives for men will target a broader male population and not a narrow cohort of ‘identified sex buyers’ therefore a criminal offence in relation to this activity should not preclude general safe sex education.

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Considering A Scenario Where the Sex Trade is Decriminalised/Legalised As A Mechanism to Reduce HIV: We know from the Irish context (Ruhama, HSE WHS and RTE Prime Time programme ‘Profiting from Prostitution’) that pimps and buyers actively encourage and expect harmful practices such as CIM (ejaculate/‘cum’ in mouth) and OWO (oral sex without a condom) from women in prostitution. A scenario where the legalisation of the sex trade would suddenly better ’empower’ those women to negotiate safe sex does not seem reasonable. In the legal context, competition and danger are just as apparent due to the enlarged size of the trade and there is no reason to believe that in a European context there would be any shift because of a change to the prostitution laws by decriminalising/legalising the trade (as opposed to broader social education and awareness programmes for instance) to decrease this reality inherent in prostitution.  

“Men are constantly looking for sex without condoms, including anal sex, which I do not do… Men want more and more thing… not just normal sex. I have to move around… I do not stay in any one place for too long as they will get to know by the reviews that you will not do these things (Floria).”

Buyers In Their Own Words: See Appendix 1 to read a sample of the attitudes of current sex buyers in Ireland towards the women they buy. These excerpts of ‘reviews’ men write online about women they buy sex with show the expectation of unprotected sex, the fact that they react negatively and even angrily when women refuse, and other indicators that sex buyers in the round do not have much interest in the welfare or wellbeing of the women they buy for sex. These same attitudes are borne out in several research studies of sex buyers.

As buying sex is currently not illegal in Ireland this exemplifies the fact that even when ‘decriminalised’ these individuals are not taking on board their ‘responsibilities’ to behave with respect towards the human right to bodily integrity and dignity of women in prostitution. This should not therefore be an argument against criminalising their actions.

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15 Reports from both the Netherlands and Germany find negative consequences to having legalised the sex trade. Additionally data can only be taken from the ‘legal’ trade and in parallel an ‘illegal’ trade has flourished in both jurisdictions. The health and wellbeing of those in prostitution in the ‘illegal’ side is likely to be even worse than that of those in the ‘legal’ sector. Reference: A.L. Daalder, Prostitution in the Netherlands Since the Lifting of the Brothel Ban, WODC (Research and Documentation Centre, Dutch Ministry of Security and Justice), 2007, www.wodc.nl/images/ob249a_fulltext_tcm44-83466.pdf

16 Sozialwissenschaftliches FrauenForschungsInstitut an der Evangelischen Fachhochschule Freiburg, The Act Regulating the Legal Situation of Prostitutes – implementation, impact, current developments, 2007


A greater targeting of pimps and organisers of prostitution who have responsibility for encouraging/coercing unsafe sex practices will be easier for Gardaí in the context of a smaller sex trade which would reduce if demand is criminalised. Prioritising policing of organised crime rather than making pimping a legitimate business activity will arguably also have a positive impact on the small minority of individuals ‘independently’ in prostitution, by reducing the risks of these criminals to their welfare.

**The Swedish Example:** The report makes a criticism of the Swedish laws by alleging that: “the approach of criminalising the client has been shown to backfire on sex workers. In Sweden sex workers who were unable to work indoors were left on the street with the most dangerous clients and little choice but to accept them.”

On enquiry to the Swedish authorities and also the Swedish expert on violence against women (EWL Observatory), this allegation has been roundly refuted and no evidence has been demonstrated to support the claim. A verbatim response to the query about the allegations of the report by the social work team of the **Stockholm Prostitution Unit** is noted in Appendix 2. This team work independently and also in conjunction with the police and comprise the only frontline service that operate a dedicated service to those in prostitution on the streets of Stockholm.

*Criminalising the purchase of sex, [provided that those ‘selling’ in prostitution are not criminalised] does not prove an impediment for those in prostitution seeking to access support, including health services, or make it more dangerous to be in prostitution. Prostitution is inherently dangerous no matter what the legal regime.*

6. **Legalising/Regulating Prostitution Benefits Pimps /Traffickers /Profiteers of the Sex Trade – NOT Those in Prostitution**

The call to legalise or regulate prostitution can sometimes come from a genuine concern for the welfare of women involved. The assumption is that if prostitution can be constructed as work, it will thereby lessen the threats of harm and stigmatisation.

Others making this argument, however, are promoters of the sex trade; pimps, procurers and traffickers. They have a vested interest in promoting this model of legislation as the benefits for them would be huge; they would no longer be considered criminals but would become legitimate businessmen/women. Once prostitution is considered as legitimate work, it is the responsibility of the health and safety officers to inspect brothels and no longer falls under the scrutiny of police. In fact, it heavily constrains police in identifying and intervening in potential exploitation because it is more difficult to enter ‘legitimate business premises’ than an illegal operation.
‘Sex work’ and ‘sex worker’ are part of a terminology and rhetoric used by those who seek to normalise prostitution. They promise that women in prostitution will achieve respect when prostitution itself is accepted as normal legitimate activity. It argues that prostitution is ordinary work, a legitimate form of work for women and a valid form of female economic empowerment. It presents prostitution as a job like any other, using traditionally female, low-paying service jobs as comparisons. It is argued that the more ‘professional’ the sex worker the more care she will take of herself.

However, a review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation, integrate it into employment law or create the conditions in which women's health and safety can be protected.\(^{18}\)

The evidence from jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that aspirations to make prostitution a safe legitimate form of work for women were ill-founded. In Germany, an extensive evaluation published in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance or registered as ‘sex-workers’, the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses.\(^{19}\)

**Germany – Key Findings:**\(^{20}\)

- **Sex trafficking on the rise (70% over a five year period)** – including trafficking by German nationals
- **No change on the stigma for women involved in prostitution** (women not registering, health insurance discrimination)
- **It has been found to be completely impractical to try to impose employment contracts without risking contractual bound exploitation** – drawing the conclusion by police that prostitution simply cannot be considered in the same way as a ‘normal job’
- **Flat rate sex promotion in brothels, discount to cyclists** – huge ‘competition’ in a now massive market
- **No help for foreign prostitutes** (no legal work permit)
- **More prostitution of African women**
- **Increase of organised criminality**
- **Some prosecutions of traffickers but no jail time**
- **Failure to help women to leave prostitution** (no ‘exiting’ supports resourced)

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\(^{18}\) Kelly et al (2008)

\(^{19}\) Kavemann (2007)

In the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any more safety for women but rather a massive legal and illegal trade in migrant girls and women; that combating the exploitation of involuntary prostitution is 'virtually impossible'; that pimping is widespread and that the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased.\textsuperscript{21}

Netherlands – Key Findings: \textsuperscript{22}

- Majority of women still under pimp control
- Increase of trafficking ‘enterprises’ (more than 750)
- 50-90% of women in prostitution estimated as being there ‘involuntarily’\textsuperscript{23}
- Prostitutes’ emotional well-being has decreased
- Very few registered formally as prostitutes (less than 5%)
- While some resources in place to support trafficking victims – almost none to support women wishing to exit prostitution
- Plans to close down businesses with links to organised crimes (including brothels) – some designated ‘red light’ areas already shut down
- In 2011, a deputy mayor of Amsterdam, Lodewijk Asscher, stated that decriminalising procuring has been a “national error”\textsuperscript{24} and that the government has been “reprehensibly naïve”
- Plans to raise the minimum age for selling sexual acts from 18 to 21 years old
- Plans to criminalise the use of services from ‘trafficked’ women

7. Complete Decriminalisation of the Sex Trade has a Similar Effect to Legalisation

Prostitution was decriminalised in New Zealand in 2003 and after nearly a decade of this form of legislation, there is evidence to show that it has some disturbing consequences for the women involved, and has resulted in an increase in prostitution in at least some areas.

One can safely draw the conclusion that when prostitution is considered as work whether through legalisation, regularisation or decriminalisation, it results in the normalisation of the buying of sex and the sex trade increases.

\textsuperscript{21} Daalder (2007)
\textsuperscript{22} ibid
\textsuperscript{23} KLPD (Korps Landelijke Politiediensten) – Dienst Nationale Recherche (juli 2008). Schone schijn, de signalering van mensenhandel in de vergunde prostitutiesector. Driebergen.
\textsuperscript{24} http://www.lemonde.fr/m/article/2011/12/23/pays-bas-flop-de-la-legalisation-de-la-prostitution_1621755_1575563.html.
The New Zealand Prostitution Law Review Committee (PLRC) noted that street prostitution in Auckland more than doubled in just one year (2006-2007), with press reports and local support services suggesting even higher increases.\textsuperscript{25}

Decriminalised prostitution in New Zealand not only made prostitution acceptable and encouraged men to buy sex, but it also transformed prostitution into a more attractive option for young, poor women. In one of the PLRC’s own surveys 25\% of those involved in prostitution interviewed stated that stated they entered the sex trade \textbf{because} it had been decriminalised (PLRC 2008:39).\textsuperscript{26}

Other concerns raised are in relation to the actual mechanisms in place to monitor and police the sex trade. The manager of support service ‘Street Reach’ in Auckland, which works with women in on-street and some off-street prostitution, has outlined serious concerns with the decriminalisation of prostitution, which reflect some of the same issues that arise also in the context of legalised prostitution.

- \textit{Increase in gang activity in organising prostitution/pimping.} On-street prostitution in particular is highlighted: where pimping was not legal before the 2003 legislation, it now is and it is reported that there is more third party control of women.
- \textit{No meaningful change for women in terms of criminalisation,} as they were largely not arrested before the law was introduced because selling sex itself was not illegal. The PLRC reported that, despite the continuation of violence and sexual abuse (“the majority of sex workers felt that the law could do little about violence that occurred”\textsuperscript{27}) most women in prostitution continue to mistrust police and were reluctant to report crimes against them following the enactment of the law.\textsuperscript{28}
- \textit{Increased challenge to police to ensure no exploitation.} Once brothels are legitimate premises, the burden of evidence to acquire a warrant is very high. Police must go to court to acquire a warrant and serve notice of this which would of course allow any minors or exploited persons to be moved from the premises.
- \textit{Funding for exiting prostitution cut from services that assisted women seeking to leave prostitution.} (Note: the New Zealand Prostitutes Collective, the largest lobbying group was established on foot of concerns about HIV prevention and offers no programmatic support such as job training/advocacy/exiting supports for women stuck in the sex trade.\textsuperscript{29})

\begin{footnotesize}
\begin{itemize}
\item The New Zealand Prostitution Law Review Committee (PLRC) (2008) page 118
\item Melessa Farley Women’s Studies International Forum 32 (2009 311 – 315 citing the The New Zealand Prostitution Law Review Committee (2008)
\item PLRC, 2008: 14 & 57
\item PLRC, 2008: 122
\item Farley 2009, WSIF. p 313
\end{itemize}
\end{footnotesize}
The interpretation of trafficking in New Zealand does not allow for trafficking internally, which has been criticised by the US TIP report as a failing in responding to, and identifying trafficking. This legislation does not account for, or record instances of the internal trafficking of indigenous Maori girls, for instance.

Even where a suspected minor is in a car with a buyer, police have no right to ask for age identification unless a sex act is actually taking place – therefore, violation of a child has already happened before police can intervene.

Pimps are circumventing the need for regulation, certification and location of brothels provided for in the law by opting to establish a ‘Small Owner Operated Business’ or SOOB. This can be done by setting up premises with less than four prostitutes and SOOBs can be located anywhere without being susceptible to regulators. There are no figures as to how many SOOBs are operating as de-facto brothels, but similar to the Netherlands and Germany, there is a clear indication that an illegal trade becomes established in parallel to the ‘legal/regulated’ one. There is anecdotal evidence that this is the case in New Zealand, with this mechanism being a convenient way for pimps to do so.\(^30\)

New Zealand explicitly rejected the regulation/legalisation model on the basis that a licensing regime would need extensive administrative and enforcement resources, and risked the creation of a two-tier industry, in which the legal side of the market would come under the control of big business and the illegal side would be populated by individuals who are most vulnerable to exploitation. While offering the benefits associated with the reduction of prostitution stigma and the greater visibility of those in prostitution (which was thought to render them less vulnerable to abuse), it was argued that decriminalisation may offer the added advantage of limiting state intrusion into the private lives of those in prostitution, and permitting them greater flexibility in their working practices.

However, significant issues outlined above are emerging in relation to this approach and equally serious questions need to be asked as to whether the law has in fact circumvented the acknowledged problems with legalising and if it has in fact done anything significant to reduce exploitation and danger to those in, or vulnerable to, coercion into prostitution. The downside of a premise of a lack of state intervention (in the main to reduce ‘administrative resources’) in circumstances where pimping and brothel keeping are made legal, is that a lack of regulation simply permits abuses to go unchecked. In addition, the hands-off ethos of decriminalisation avoids difficult ideological questions about the status of prostitution as a form of condoned labour only at the cost of selective blindness to the harms that are inherent in the sale of sex.

\(^{30}\) All bullet points above, where not otherwise cited, are drawn from Debbie Baker, Manager ‘Streetreach’ Auckland. Presentation to Grosse Freiheit Conference on prostitution and trafficking, Copenhagen 8\(^{th}\) May 2011

Ruhama

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8. **Complete Criminalisation of Prostitution is NOT a Positive Solution**

States which take measures to criminalise all aspects of prostitution, including the seller, such as the majority of the States in the USA, fail to recognise and legislate for the vulnerability of those in prostitution. In such regimes, it tends to be overwhelmingly those prostituted rather than their buyers who are arrested and punished.

Ruhama does not advocate for such a legal approach which in effect criminalises those in prostitution (including victims of trafficking and children) for their own exploitation.

9. **Criminalise Buying of Sex And Decriminalise Selling of Sex: The Swedish Example**

At a time when the sex trade has increased and expanded throughout Ireland at an unprecedented rate, it is hugely important that we generate strong deterrents which will curb the demand for prostitution, which is fuelling the current market and creating huge profits for criminal gangs.

The law is used as a very effective educator; making society aware of the harmful effects of certain behaviour i.e. drink driving, passive smoking, driving without seat belts etc.

The criminalisation of certain behaviour acts as a deterrent, particularly for those who are in the ‘potential perpetrator’ category; they are less likely to commence behaviour that is classed as a criminal act.

In July 2010, the Swedish government published an evaluation of its 1999 law which prohibits the purchase of a sexual service (and not the selling of such service). The evaluation was led by the Ministry of Justice.

➢ **By tackling the demand, the prohibition to purchase sexual services functions as a barrier against the establishment of organised traffickers and pimps in Sweden.**

According to the National Police, the law contributed to the fight against international networks of procurers. By tackling the demand and therefore reducing their possibilities to gain from the exploitation of prostitution, Sweden has discouraged criminal networks to invest on its territory.

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31 Website of the Swedish government: [http://www.regeringen.se/sb/d/13358/a/149231](http://www.regeringen.se/sb/d/13358/a/149231).
32 It is interesting to notice that this positive assessment has been made by a government led by the political party which, 10 years earlier, had voted against the law as it was in the opposition side.
33 This deterrent effect has been confirmed by police phone-tapping activities which reveal the lack of ‘profitability’ of procuring investment in Sweden.
• The number of persons exploited in street prostitution has halved and there is a general stabilisation of the number of prostituted persons, compared to the significant increase in neighbouring countries.

The evaluation of the Swedish law shows that:

- The number of persons exploited in street prostitution has halved since 1999, while it increased in Denmark and Norway for the same period – to the extent that Norway followed Sweden’s example in legislation to criminalise the sex buyer in November 2008.
- Prostitution through the Internet has increased in Sweden as it has in other countries, due to the development generally of online technology. The numbers of individuals that are sold via Internet web pages/ads are much larger in similar neighboring countries such as Denmark and Norway.34
- The proportion of prostituted persons from third-countries did not increase in the same way it exploded in neighboring countries.

• The law proves to have normative effects through the reversal of mentalities in 10 years: there is more than 70% of public support to the law.

While the majority of the Swedish population was opposed to the prohibition of the purchase of a sexual service before the adoption of the law, 10 years later three pools have shown that more than 70% of the population support it fully. The normative effect of the law seems even stronger as support to the law is higher amongst the young people who have grown up in a state where the purchase of another person’s body for sex is deemed unacceptable.

• The prohibition acts as a deterrent for the buyers of a sexual service: there is a decrease of the demand.

According to pools in Sweden, the proportion of men who buy sex has decreased. In 1996, 13.6% of Swedish men said they had bought someone for prostitution purposes. In 2008, it is only 7.8%. A large number of interviewed men said they don’t buy sex anymore because of the law. The Swedish police consider that the legislation prevented many potential sex buyers from taking the plunge in the first place.35

The Department of Justice and Equality Discussion Document on Prostitution Legislation poses some specific questions in relation to a law that would follow the Swedish example (pp39-40). Most have been responded to in the broader context of arguments presented above. However some specific questions are responded to here:

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34 In 2007, the Swedish national agency for social affairs studied during 6 weeks the ads posted in the Internet and took inventory of only 400 persons proposing sexual services. In 2008, more than 800 persons in Denmark, and almost 1400 persons in Norway were proposing services on the Internet only. Source: http://www.assemblee-nationale.fr/13/pdf/rap-info/i3334.pdf (p. 226).
35 Since the legislation coming into force in 1999, 4225 men have been apprehended.
Might a ban on the purchase of sexual services drive prostitution further underground?
Since the enactment of legislation in Sweden, there has been no increase in ‘hidden’ prostitution. Social services and the police highlight that prostitution cannot completely ‘go underground’ as it needs some form of publicity to attract sex buyers (see Appendix 2).

Would immunity from prostitution for sellers expose the purchasers of sex to a risk of blackmail?
This proposition takes no account of the fact that in consistent examination of the issue of prostitution, it is the prostitute that faces far greater social stigma and judgement as ‘a prostitute’ than a ‘sex buyer’ does. Those in prostitution do not want to be identified as such. This is evidenced by the extremely low numbers who register in states where it is legal/decriminalised. Blackmail is in fact a common mechanism for pimps and traffickers to coerce victims to remain in prostitution – for fear that their families/loved ones will find out what they are doing. There is little or no evidence of those in prostitution blackmailing their clients, and little conceivable motivation for them to do so as they would risk their own, highly undesired, personal exposure in doing so. Blackmail of buyers is far more likely to be carried out by criminal organisers of prostitution. For example, convicted Irish pimp Tony Linnane (jailed May 2010) had cameras hidden in smoke alarms recording activities in the brothels he ran – suggesting the potential to blackmail not only clients but the women also.36

Given the stigma associated with convictions for solicitation, could a Swedish style ban have undesirable consequences for persons convicted of an offence (which would be minor) of purchasing sexual services? AND:
Would it have unacceptable knock-on effects on innocent parties, for example, the spouses or children of defendants?
The purpose of criminalising the purchase of sex is specifically to have a deterrent effect in much the same way as any other law, and therefore the consequences are, by definition, designed to draw public opprobrium on the activity – be it speeding, drink driving or buying sex. It is difficult to see why an argument should be made to protect the purchasers of sex because of the stigma associated with soliciting when in this country the media have historically had few pangs in relation to exposing women arrested and convicted of minor offences relating to prostitution: thereby exposing them, their families and children to pain and suffering. This two-tiered argument is highly hypocritical as it is the sex buyer who has the agency and can choose to buy or not buy sex with their disposable income, whereas those ‘selling’ are largely there through the

36 http://www.independent.ie/national-news/courts/jailed-brothel-operator-to-pay-total-tax-bill-of-15m-2177900.html excerpt from article: “The brothels all had cameras hidden in smoke detectors and power-sockets -- with patrons now terrified that any potential recorded images could fall into the wrong hands”
absence of other viable choices. The exposure of sex buyers may indeed hurt their relationships and their reputations, but just as it is the case with drink driving, this is their own responsibility.

Would enforcement of a ban on the purchase of sexual services divert the Gardaí from operations targeting serious and organised crime, including human trafficking and organised prostitution?

It is envisaged that this legislation would assist Gardaí in the first instance by reducing the size of the sex trade through reduced demand and therefore reduced incentive to criminals to establish or expand prostitution in Ireland.

A very recent study demonstrates empirically, that the size of the prostitution trade in a jurisdiction has a proportionate impact on the numbers trafficked to service demand. In countries with a larger trade e.g. Germany, there are larger numbers of victims of trafficking and in countries where there is less overall prostitution e.g. Sweden, there is less overall trafficking in proportion.37

It is also envisaged that the policing of sex buyers would occur largely in the context of operations also targeting organised prostitution/trafficking. In Sweden and Norway this is the approach, combined with some co-ordinated and targeted operations annually, which focus on the buyer to ensure continued awareness that buying sex is an offence. This is resource effective and has the added benefit of keeping the law in the public perception, thereby increasing its normative and deterrent effect.

In relation to legal questions raised by the enacting of a law that criminalises the purchase, but not the selling of sex, please refer to the specific section of this submission (Section 12: Proposed Legislation).

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10. **Update Prostitution Legislation to Reflect Changes in Organised Prostitution**

Since the enactment of the Criminal Law (Sexual Offences) Act 1993, there have been many changes in the Irish sex trade, notably; how prostitution is organised, the profile of the women involved and the large scale profits made by criminal gangs.

Prostitution was mainly urban and street based in the 1980s and early 1990s; thus influencing the drafting of the 1993 legislation, which criminalised the public order offences surrounding prostitution, rather than the act of prostitution itself.

The penalties attached to the organisation of prostitution are comparatively small scale and do not reflect the profits gained by today’s standards.

In 2012, the Irish sex trade portrays a very different reality; indoor prostitution is predominately the largest section of the sex trade. It is highly organised by criminals (both Irish and foreign) and operates in every county in Ireland. Criminals running the sex trade are making huge profits at the expense of vulnerable women, most of whom are foreign, coming from backgrounds of poverty and a lack of options.

An RTE Prime Time special investigation\(^{38}\) into organised prostitution which was broadcast in February 2012, exposed not only the scale of organised prostitution in Ireland but also the apparent ease with which pimps and buyers of sex can operate with impunity. The only people who featured before the courts during this nine month intensive investigation were three foreign prostituted women who were under the control of a pimp.

11. **Role of Telecommunications in Organised Prostitution**

In 1999, the In Dublin Magazine, which was one of the main sources of advertising prostitution, was banned. However, the impact of this ban was short lived because at the same time, the internet was emerging as a new form of communication and the criminals were quick to switch over to this new medium to advertise and organise prostitution with impunity.

The use of mobile phones have played a significant role in organising prostitution. Therefore, it is of critical importance that Gardaí are equipped with legislation that allows them to shut down mobile phone numbers known to advertise prostitution.

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The traditional approach to policing indoor prostitution involved surveillance, police raids, sometimes arrests and closure of premises. Before the introduction of modern telecommunications, pimps needed to be on site to organise the brothel and collect their money. The pimps were visible and this gave Gardaí an opportunity to arrest the main players in the sex trade. The introduction of modern telecommunications, has given anonymity to the pimps and traffickers.

The traditional policing approach of closing a premises, only causes a short-term inconvenience for the organisers of today’s sex trade. With the mobile phone number advertising the brothel still in circulation; if a client rings this number, they will simply be directed to a new location and ‘business’ continues as usual.

12. **Recommendations: Prostitution Legislation**


Three amendments are recommended to the Criminal Law (Sexual Offences) Act 1993 – *Sections 1, 9, and 11.*

These amendments would:
- create a legal interpretation which recognises the vulnerability of prostituted people and prevent their criminalisation.
- act as a strong deterrent against organised prostitution and revise penalties to reflect the current scale of the crime
- strengthen existing legislation to criminalise landlords who are complicit in organised prostitution

**Section 1 – Interpretation**

*Introduction*

The background of those who find themselves prostituted is one of poverty, coercion, lack of options, violence, addiction, mental health issues and previous experiences of abuse. The vulnerability and marginalisation of those selling sex is exacerbated through the experience of being prostituted.
The majority of women involved in prostitution do so because they have, or believe they have, few other viable economic options.\footnote{Barry, 1995; Hardman, 1997; Scambler and Scambler, 1995.}

Legislation needs to acknowledge the particular vulnerability and marginalisation of prostituted people, by affording them a vulnerable status and not criminalising them.

**Suggested amendment:**
In Section 1 (2) In this Act a person solicits or importunes for the purposes of prostitution where the person – We are suggesting the removal of part (a) ‘offers his or her services as a prostitute to another person’.

This amendment will recognise the vulnerable status of those who are prostituted, while continuing to criminalise the buyers.

**Section 9 – Organisation of prostitution**

**Introduction**
The sentencing of those convicted of organising prostitution needs to reflect the harm inflicted on vulnerable victims and the profits gained.

In comparison to other offences, the penalties for this exceedingly lucrative crime and its harm to the lives of vulnerable people are disproportionately low.

**Suggested amendment:**
Given the huge profits accrued through the sex trade, we recommend a fine not exceeding €10,000,000 or to imprisonment for a term not exceeding 10 years or both.

**Section 11 – Brothel keeping**

**Introduction**
While most landlords are tricked into renting out apartments which are then used as brothers, there are however some landlords renting out properties to women, knowing they will be used as brothels.

While most landlords are tricked into renting out apartments which are then used as brothers, there are however some landlords renting out properties to women, knowing they will be used as brothels. At the moment Sections (b) and (c) requires a high burden of proof...
that the person ‘knowingly’ or ‘with the knowledge’ allowed their premises to be used as a brothel. There needs to be a lower burden of proof so that landlords do not use the defence of not being aware of how their property was being used. As in Section 18 of the Criminal Justice (Theft and Fraud Offences) Act 2001, the word ‘reckless’ could be added to Section 11 (b) and (c) of the Criminal Law (Sexual Offences) Act 1993 to lower the burden of proof.

**Suggested amendments:**

(b) being the tenant, lessee, occupier or person in charge of premises, knowingly permits such premises or was reckless as to where such premises or any part thereof to be used as a brothel or for the purpose of habitual prostitution or

(c) being the lessor or landlord of any premises or the agent of such lessor or landlord, lets such premises or any part thereof with the knowledge or was reckless that such premises or some part thereof are or is to be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof as a brothel.

### 12.2 Criminalise the Purchase of Sex

Ruhama acknowledges the Government’s efforts to tackle demand in the Criminal Law (Human Trafficking) Act 2008. This legislation has a very narrow scope and has resulted in no prosecutions to date. By allowing the defence that he or she did not know that the person in respect of whom the offence was committed was a traffick person leaves an insurmountable burden for the police to prosecute under this Act.

Ruhama recommends legislation to criminalise the purchase of sex. A legal opinion has been published on a draft amendment to the Criminal Law (Sexual Offences) Act 1993, commissioned by the Immigrant Council of Ireland in 2009.  

During debates about the proposed legislation to criminalise the buyers, some people have expressed concern about the issue of ‘Strict liability’. Ruhama believes this strict liability should not be problematic in introducing this legislation (see Appendix 4).

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40 An analysis on the potential for implementation of provisions criminalising the purchase of sexual services in Ireland, by Aileen Donnelly, Immigrant Council of Ireland 2010.
12.3 Address the Role of Telecommunications in Advertising and Organising Prostitution

- Advertising Prostitution on the Internet

Criminal Justice (Public Order) Act 1994

The Criminal Justice (Public Order) Act 1994 deals with the publication or distribution of advertisements for prostitution; however the maximum penalty on conviction is £10,000. Currently, some of the websites advertising prostitution in Ireland earns an estimated €150,000 per month; therefore the penalty attached to this Act is not a serious deterrent for these criminals.

The Criminal Justice (Public Order) Act 1994 seems broad enough to include the prosecution of persons advertising prostitution on the internet. Denis Kelleher and Karen Murray in their book ‘Information Technology Law in Ireland are of the legal opinion that the advertisement of prostitution as contained in the Criminal Justice (Public Order) Act 1994 and 2003 can be applied to advertising on the internet (Appendix 3).

However amendments need to be added to the Act to improve its effectiveness and operate as a strong deterrent against this lucrative crime.

Suggested amendments:
(a) making it an indictable offence which would give the Gardaí power to arrest the perpetrators, (currently it is a summary offence).
(b) increase the penalties to a substantial amount of money and a custodial sentence of 10 years.

Ruhama believes there is precedent in case law which would give a strong legal argument for the prosecution of the advertising of prostitution on the internet.

- The use of Mobile Phones in Organised Prostitution

Introduction
The recommended legislation outlined in this submission to address the role of mobile phones in organised prostitution is targeted specifically at pimps/traffickers/profiteers and not prostituted individuals.
**Suggested legislation:**

1. Legislation needs to be enacted which makes it a criminal offence to own, possess or control a *sim card* which is advertised for prostitution.

There needs to be certain stipulations in this proposed legislation to avoid the criminalisation of prostituted individuals.

Stipulations need to include:

- that a high ranking Garda (Superintendent) in consultation with the DPP be convinced that the person was not a victim of exploitation/controlled in prostitution or completely independent of organised prostitution before they go ahead with a prosecution
- there is a tiered system of sentencing, from a caution, fine or custodial sentence. This would avoid the conviction of victims of pimping/trafficking and/or individual prostituted persons and give maximum sentencing to the major criminals
- offences of a minor nature to be considered under the adult caution offence

This legislation would also need to prevent the telephone number from going back into circulation without the permission of the Gardaí.

2. It could be argued that telephone companies need to take much more responsibility in co-operating with authorities in tackling this area of organised crime. In the absence of any actions taken by phone companies, it is necessary to enact legislation so that when Gardaí gather evidence that a particular phone number or numbers are used for advertising or organising prostitution, they can get a Court Order to seize and own the number. With the phone number in the Gardaí’s name, they can serve an order on the phone company to shut the number down.

3. We propose legislation to include a Court Order which could be served on mobile phone providers authorising them to remove telephone numbers associated with advertising, possessing, organising and/or controlling for the purpose of prostitution. This order could be obtained in the District Court on the sworn information of a member of An Garda Síochána not below the rank of Sergeant and should authorise the immediate removal of the mobile phone number from the mobile phone provider’s network.

12.4 **Anonymity in Respect of Vulnerable Witnesses**

Women involved in prostitution find themselves prey to pimps, clients, protection racketeers and anyone wanting to exploit vulnerable women. Violence to women is prevalent in the sex trade.
There is a major under reporting of crimes against women involved in prostitution and unwillingness by women to cooperate as witnesses in court cases due to the stigma attached to prostitution and their fear of being identified by the media and fear of reprisal.

**Suggested legislation:**
To introduce anonymity provisions for women involved in prostitution who have been victims of crime.

To allow victims to give evidence to the court by video link.

### 12.5 Spent Convictions

Through Ruhama’s work, we have identified the existence of a criminal record (for soliciting) as a barrier for women exiting prostitution and accessing the labour market. In our experience we have witnessed women turn down the opportunity of employment when they discovered a Garda clearance was necessary. This is due to the stigma attached to prostitution which results in the women feeling too ashamed or scared of the consequences if their past was revealed.

**Suggested legislation:**
We acknowledge the Criminal Justice (Spent Convictions) Bill 2012 includes crimes committed under Section 6, 7 and 8, however we would recommend legislation needs to include a full expunging of the criminal records.

### 13. Recommendations: Exiting Prostitution

If the law in Ireland changes to criminalise the purchase of sex the number exploited in prostitution are likely to diminish considerably – particularly in relation to organised prostitution. However it will nonetheless be critical for the state to prioritise support and assistance to those who still remain trapped in the sex trade given that the vast majority do not wish to remain in prostitution.

For those in the sex trade trying to get out it is critical to ensure the maintenance and further development of resourced exiting programmes that create real alternative and choices to women trapped in the sex trade. Exiting prostitution is very difficult given that many of the circumstances that brought people into prostitution also create barriers to exiting.
Forthcoming UK research (2012) by EAVES involving over 100 women in process of exiting or just exited prostitution outlines the most significant barriers:

<table>
<thead>
<tr>
<th>Barriers</th>
<th>Definitions</th>
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<tbody>
<tr>
<td>1. Dependency</td>
<td>Drug or alcohol dependency</td>
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<tr>
<td>2. Housing</td>
<td>Homeless or living in unsuitable accommodation</td>
</tr>
<tr>
<td>3. Physical or mental health problems</td>
<td>Physical or mental health problems as reported by participants</td>
</tr>
<tr>
<td>4. Experiences of childhood violence</td>
<td>Sexual, emotional, physical or verbal violence and abuse</td>
</tr>
<tr>
<td>5. Criminal record</td>
<td>Criminal convictions relating to both prostitution or non-prostitution offences</td>
</tr>
<tr>
<td>6. Debt</td>
<td>Personal debts of any amount</td>
</tr>
<tr>
<td>7. Coercion</td>
<td>From partner, pimp, relative or other person</td>
</tr>
<tr>
<td>8. No qualifications</td>
<td>No formal qualifications or training</td>
</tr>
<tr>
<td>9. Age of entry into prostitution</td>
<td>Under 18 years / 18 years and over</td>
</tr>
<tr>
<td>10. Disposable cash</td>
<td>Viewing income from prostitution as ‘disposable cash’</td>
</tr>
<tr>
<td>11. Victim of trafficking</td>
<td>As defined by the United Nations Palermo Protocol 2000 (section 3.a)</td>
</tr>
<tr>
<td>12. Entrenchment</td>
<td>Prostitution is not simply a ‘part’ of the woman’s identity but rather all aspects of her life are connected to her involvement. She finds it difficult to imagine a life where she is not involved in prostitution. Entrenchment may be signalled by a lengthy and habitual involvement, however, the duration of a woman’s involvement is not the key consideration.</td>
</tr>
</tbody>
</table>

The research preliminary findings conclude:

“Early exploratory analysis indicates that women who experienced a higher number of trapping factors [barriers] were much more likely to have experienced entrenchment, have a criminal record, have experienced coercion during their involvement in prostitution and to have entered prostitution when under 18 years than women with fewer trapping factors. It is important to note that with an increasing number of trapping factors present, women’s attempts to exit become more complicated as each factor interacts with each of the other factors.”

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42 Ibid
Ruhama operates an exiting model of support to women affected by prostitution following several key principles:

- Understand exiting not a linear process for most women. Ruhama supports women irrespective of whether they wish to exit or not – the service is open and non-judgemental regardless.
- Exiting not the same as “stopping” for a while. A process of change.
- Supports which can facilitate exiting an integral part of the service not separate and distinct.
- Non-judgemental service (no requirements to exit, recognise re-entry not as a “failure”, building trust)
- Led by the woman’s own priorities not those of the service.
- Collaborate on identifying meaningful and achievable goals to support confidence building.
- Review care plans regularly – flexibility
- Development/education tailored to individual needs: no “one size fits all” model.
- Offering a “Wrap-around” model: Practical support combined with empathic emotional supports. Accessed to greater or lesser extent depending on individual needs, working towards complete independence of the service.

This service also requires considerable collaborative effort with other stakeholders:

- Sexual Health/General Health Services: referral and outreach to clinics.
- Addiction Services: mutual referral and supports
- Migrant support Services: Legal advice and advocacy.
- Gardaí/Judiciary: Support to report crimes, through investigation, advocate where woman focus of a criminal charge.
- Others: as required in individual cases

The state should give priority to preserving the voluntary and health services currently in place to tailor to the complex needs of women in prostitution. Additionally consideration should be given to supporting and encouraging other services, particularly outside Dublin, who have contact with this vulnerable group (e.g. immigration, sexual health or addiction services) to broaden the scope of their work regionally to include a focus on exiting prostitution as part of their own responses.
APPENDICES

APPENDIX 1

Sex Buyers in Their Own Words

The quotes below are taken from an Irish escorting website which allows buyers to review those who they have bought, based on their satisfaction with the ‘service’.

A large number of negative reviews are because buyers are angry that women would not perform OWO (oral sex without condom) or CIM (ejaculation in the mouth: ‘cum in mouth’). In many cases, with some examples below, the buyer seems clearly aware that someone else (i.e. a pimp) has put up a woman’s ad and indicated that she is available for sex acts, which it turns out she does not want to provide.

However, rather than understanding and compassion that they are probably buying sex with a woman controlled for prostitution who is likely vulnerable, they write a negative review. In some cases (again samples below), there appear to have been clear indications that women are unhappy – beyond their refusal to engage in undesireable and unsafe sex acts, which are ignored by these men in favour of complaining online about what a ‘bad time’ the buyer has had.

Still, other reviews clearly indicate the reductive and judgemental way sex buyers view women they buy; like no more than pieces of meat (e.g. referring to sex as the ‘main course’), or blow up dolls rather than a human being (e.g. scoring points out of ten for performance). There is never anything to prevent a sex buyer making an anonymous report about a woman who they think is vulnerable and yet this rarely occurs. Reviews however, abound.

The sample below was compiled from sex buyer reviews on the largest ‘escort-advertising’ website in Ireland. NOTE: The names attributed to the buyers below are the ones they chose for themselves.

- Complaints about refusal to engage in unsafe sex: No ‘OWO’ (oral sex without condom)

“The Legend”
- met with [name] last nite 4 a late one ! nice on the fone so gave her a spin... no owo was a big let down and didnt fancy french kissing wit her .. anal available and decent ride ... nothing special just ok punt ... 6/10 for THE LEGEND ...
- dropped mrs. legend off at airport as she is go n home 4 two months - yippee ... anyway made a few calls - early and got [name]... agreed services and fees.. lovely looking girl - small petite and super body .. gave her a gud c n 2 and we both were breathless after a 5 star performance from us both ... sex was super and i highly recommend [name] ... anyway -- THE LEGEND is on the loose now so BEWARE !
- hi.. meet [name]at short notice. went to her place meet this very tall attractive girl fabulous figure and thats it, everything i asked was no ! no owo cim kissing just shag me and go.. big waste of time felt cheated and a total waste of money. we think 100 euros is cheap ? spend the xtra lads and get the value ! my advice is give this girl a big miss 1/10...
James Cork

- In the bedroom: I am not a GFE man on first visit but didn’t get the sense it was forthcoming anyway. Nice large boobs, nice shape. Foreplay was attempted, and condom was out faster than one could say Bernard Manning. Oral was good, but who can really tell when it is COVERED.

Espensen

- Ok, nice girl, but NO OWO!!!!!!! I am tired of this kind of thing being listed and then not offered. She offered money back and I absolutely accepted. It’s not her who writes the ad she says, so she should honestly lambast whoever IS writing the ad and REMOVE OWO. I had to travel there, it took time, the weather was crap, ONLY to have to LEAVE again. She’s a nice pleasant girl, but I left with my money back.

- The niceness is a bit forced to be honest. And the big one, the dealbreaker, owo, NOPE!! That for me is an automatic RED.

- Nice girl, but AGENCY. NO OWO or TEABAGGING or KISSING, even though advertised. Whoever writes these ads for the girls should explain what these things are, so that they can remove them from their ads and avoid reviews like mine. Feckin hell!!

Derogatory attitude to women

James Cork

First impressions: Dismay. I feel she made no effort whatsoever to make herself attractive to me the client. She looked a bit dishevelled and tired. Although under close scrutiny I am happy it is she in the photos, her presentation is no where near what I expected to greet me. She is somewhat older than the beauty the photos portray, and not as pretty, nor toned. Even if she had arranged her hair or had worn a touch of makeup, or even had worn a pair of heels she MAY have come near to the advertised profile. I felt she really didn’t give a damn, and this I found disappointing.

In the bedroom: Ok, here, she picked up a bit, OWO was good with acceptable technique. GFE was attempted and she was tactile throughout. But I didn’t feel a sexy or sensual mood so allowed her to conclude with CIM. Boobs are delightfully natural but also looked tired. All in all, main course lasted about 10 minutes.

Espensen

- Photos are well, old and very touched up. And she is a bit overweight, so if you were expecting a slim woman from the photos, u will not get her. She is shall I say a bit heavy and if you don’t believe me, then go for yourself.

MILF Hunter

- The Good: Good looking (and sexy) girl + firm boobs + Ok apartment + Nice pussy + 'Zero attitude'... which is always a plus + wore a uniform as requested + accurate pics + didnt have any issue with her english + avergae DFK which is ok + €80 price (OWO included)

- The Bad: Zero enthusiasm + Poor OWO + robotic service
Pinkorbrown

- first of all she is not the girl in the photos, kept me waiting half hour met her at aparment then with another girl, had the choice of two, went with the so called [name], one good thing she has a tight pussy but thats where it ends, i would avoid

Indications of women unhappy in prostitution resulted in a ‘bad review’ on a public website rather than a compassionate response/contact with Gardaí.

John Rambo

- Well, the thing is, [name] is a smiley HOT lady with sexy body, but i was not satisfied with the service i got...Shes not that time watcher but i didnt feel she likes this job, I can understand why but i paid for a good time and i didnt get that...
- Met [name] today she is a very nice girl but she not a good escort she just did not want to be their, her English is very poor

SMAN

- Nice girl, but clearly didnt want to be touched, not a great experience.

Click-n-pick

ill start with the worst and most horrid
- she has a very bad ****REMOVED****.
- no shower offered.
- the bed did not even have a sheet on it... very classy? i think not! no tissue of any sort to clean myself after,nice touch eh?
- this girl does not take care of herself.
- i did my biz and got the hell outta there as quickly as i could.
- not sure its her in the photos,dont think it is.
- no way i can recommend.

Jack 78

- nice enough girl, very thin so if thats your thing then this is for you. Location was the familiar appt block ***removed*** not my fav in the city but seems to be where all the action is these days. OWO was good with nice ball licking but she had no real interest in being fucked lay on bed, no movement or sound and left me felling a bit shit for fucking her nad enjoying it, maybe i'm just fucked up in te head???[SIC]

MILF Hunter

- Met with [name] and her girlfriend for a 15 mins duo session yesterday around 8.30 pm

1. Dingy apartment @ basement of an old house in D8.
2. Her receptionist answers the call (OK English). Good directions.
3. Pics are FAKE. I decided to stay as I had travelled a long distance
4. NO kissing....
OK OWO (received from 1 girl only).
5. The other girl was cheeky...she put a condom on when I wasn't looking. FFS
6. No towel. No shower before and after.
7. Dirty room (you will have to pass through the kitchen which is also dirty)
8. Good hygiene. However, I had to ask her to use mouthwash before.
9. Both girls are extremely arrogant....didn't climax....had to go see another girl afterwards
10. Waste of time and money.
11. I would rather stick it in my neighbours dog

Pussyman
- Not the girl in the photos in my opinion. If she is they are photoshopped because not as attractive in the flesh. Was very quiet throughout our meeting and not much responsive to touch. Enjoyed the intercourse but not much else.
- Bit disappointing. First of all she's an agency escort, not an independent as advertised. Also none of the advertised services on offer -- only covered BJ and sex. My first impressions weren't great but she has a great body when naked. Nice to talk to but left me with feeling she wanted me to come ASAP so that she could get dressed as quickly as possible.
- Pictures real -- most of them anyway. Looks more than 22 though -- probably in late 20's. I had hoped to see Sara but she was booked up. Nice girl. Very blunt and to the point which was a bit off-putting. Tall and leggy but tits quite small. Nice pussy but put limits on how long it could be touched. Gave me OWO and I came very quickly before we could have intercourse. Didn't really enjoy the experience but then she wasn't really my type. Others may prefer. Hopefully has cured me of punting for a while!

The Longman
- what a load of ***removed*** the worst of them all i have been with a lot of girls and most of them have been very good but this girl is rude i would have been better of my hand
- first of all i like to say this girl is not independent she works for agencie because the girl i talk to on the phone could speak english when i went to the apartment the girl could speak no english when i told her what i wanted she had to ring a girl and i had to tell her what i wanted then she had to tell [woman on phone] and it went down hill from there the sex was crap everything she does not like her job then she should stop this work lads stay away at all costs

Nineby three
- this is a strange one for me , I have no doubt that this is an an agency run in a kip of apartment. I had a conversation with [name] on the phone, good chat so i said i chance it. Arrived and was met by a lady i spoke to on the phone and she showed me into room. The real [name] was there exactly like her pics. Not a word of english only Hungary.
- will i stay or go ?I stayed and was pleasantly surprised. She was not bad at all eventhough i would say a bit innocent.
- All and all not the worst punt i ever had but far from the best.
APPENDIX 2

Response from the sole frontline outreach service to those in Street Prostitution in Stockholm, to the argument that the law has made things more dangerous for those on the street, and that it has pushed the indoor trade ‘underground’.

‘As you may well know, I do outreach work in the street here in Stockholm, and I many times hear from women (and men) that it’s easier for them to report crimes committed towards them (abuse, rape, robbery) because of the law. Many feel that they are being met with more compassion and understanding and less prejudice from the police and courts etc. And I would say that this is something we can see too. That other authorities in fact ARE being more compassionate and understanding towards the selling part in prostitution. They now understand that prostitution is NOT solely about money and that “the free choice” is merely an illusion.

Some opponents of the law here in Sweden (and abroad) say that since the law was enacted prostitution has moved from the street and went underground (with the help of internet). And therefore is more violent and dangerous now. We as a unit would say that this is NOT correct. Prostitution has ALWAYS been dangerous for the selling part. I have colleagues who worked before the law and women were being raped, abused, robbed etc. even then. And that the law has moved prostitution indoors is quite a strange thing to say. Around 1999, when the law was enacted, the use of internet and mobile phones increased tremendously. Everything is on sale on the internet now! And what does underground mean? It can’t be that hidden and underground since the buyers can find the women, right?

In conclusion, we are very positive about the law. I do believe that in a longer perspective the law is helping our clients, women and men, buyers and sellers. The law is establishing norms under which no woman, man, boy or girl can be sold and no one has the right to sexually exploit another human being. This is a question of values. Prostitution and human trafficking is a societal problem that touches all of us. But especially the women and men we meet that have sold themselves. And after understanding that and getting a deeper knowledge about what prostitution does to human beings, the deep hurt it inflicts upon the selling part (and from what we can see with our work with the buying part – sometimes the hurt inflicts even them…) you can’t but have a positive attitude towards the Swedish law.

…the police working on the street would say exactly the same thing as us and in Stockholm ONLY me and [my colleagues] do outreach (as you know, the number of women on the street isn’t that big) so we know what we’re talking about.”

Direct quotes from Miki Nagata, (Social Worker, Social Welfare Services Outreach Unit of the Prostitution Unit).
APPENDIX 3

Kelleher, Denis and Karen Murray (2007) Information Technology Law in Ireland

[29.23] There would appear to be a significant phenomenon of prostitutes, or rather their
pimps, advertising their services online:

"The sex industry in Ireland is booming as never before... On-street prostitution is all but
gone, apart from small numbers of more elusive, drug-using women. The core of the
industry has moved indoors, using mobile phones, the internet and private rented
apartments to offer a discreet, though surprisingly accessible, 'service'... Completely
legally, anyone can access numerous websites listing mobile-phone numbers for
Bullbridge, Clondalkin and elsewhere in Dublin, as well as Limerick and Galway
'agencies'."

[29.24] The apparent pervasiveness of such advertisements is surprising, given that it is
an offence to publish these. But, unless they are very unwise, the publishers of these
sites will ensure that they are hosted in jurisdictions beyond the reach of the gardaí. The
Criminal Justice (Public Order) Acts 1994 and 2003 provide that an offence will be
committed by any person who:

"publishes or causes to be published or distribute" or causes to be distributed an
advertisement which advertises a handout or the services of a prostitute in the State or any
premises or service in the State in terms, circumstances or manner which gives rise to
the reasonable inference that the premises is a brothel or that the service is one of prostitution
shall be guilty of an offence."

[29.25] This provision would seem to apply to the Internet, the Criminal Justice (Public
Order) Acts 1994 and 2003 provide that the term 'advertisement' includes:

- every form of advertising or promotion, whether in a publication or by the display of
notices on posters or by the means of circulars, leaflets, pamphlets or cards or other
documents or by way of radio, television, computer monitor, telephone, facsimile
transmission, photography or cinematography or other means of communication.

[29.26] Given that the legislation was enacted in 1994 it may seem surprising that the
above does not include any reference to the Internet. But the definition seems broad
enough to encompass the placing of an advertisement online. The Criminal Justice
(Public Order) Act 1994 and 2003 provide a defence for an accused who can:

- show that is is a person whose business it is to publish or distribute or arrange for
the publication or distribution of advertisements and that he received the advertisement in

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[29.27] In other words, this is a defence of innocent dissemination and as such it should
be read in conjunction with the Directive on e-Commerce. Anyone convicted on
indictment of such an offence may be fined a maximum of €12,697 (€10,000). In 2000,
a publisher was fined €53,000 after he published advertisements which promoted
prostitution.\cite{29.27}

Section 7 of the Criminal Justice (Public Order) Act 1994–2003 also provides that it:

- "shall be an offence for any person in a public place to distribute or display any writing,
sign or visible representation which is threatening, abusive, insulting or obscene with
intent to provoke a breach of the peace or being reckless as to whether a breach of
the peace may be occasioned... A person who is guilty of an offence under this section
shall be liable on summary conviction to a fine not exceeding £500 or to imprisonment
for a term not exceeding 3 months or to both.'"\cite{29.28}

Censorship

Censorship has a controversial history in Ireland, and a dispute about censorship
policy between the Government and the Catholic Church is said to have been the driving
force behind Attorney-General v Simpson.\cite{29.29} Ireland has a specific censorship regime for
three different categories:

(i) printed matter, such as books and magazines, is dealt with by the Censorship of
Publications Act;

(ii) films are dealt with by the Censorship of Films Acts; and

(iii) videos and DVDs are dealt with by the Video Recordings Act 1989.

Of the above, the Video Recordings Act 1989 has the greatest application to
information technologies. The Act defines video recording as "any disc or magnetic
storage containing information by the use of which the whole or a part of a video work
may be viewed". A video work is defined as meaning "any series of visual images (whether
with or without sound) ... produced, whether electronically or by other means, by the
use of information contained on any disc or magnetic tape, and ... shown as a moving
picture."\cite{29.30} It is an offence to supply a video work that has not been certified by the
Official Censor, unless the supply is a supply or work exempted by the Act.\cite{29.31} This
offence is punishable by a maximum term of imprisonment of three years.\cite{29.32} The continuing

\cite{29.77} Criminal Justice (Public Order) Act 1994, s 23(3).
\cite{29.78} €50,000 fine for publisher who made €400,000 a year from brothel ads’ (2006) The Irish
Times, 19 October.
\cite{29.79} See Weisner and Swift, Spied: Church-State Intrigue and The Rose Tattoo (New Island, 2002).
\cite{29.80} See Melton Enterprise Ltd v Censorship Board (2005) [IR] 62 for an analysis of
the decision-making processes of the Censorship Board under the Censorship of
Publications Act 1946.
\cite{29.81} Video Recordings Act 1989, s 1(1).
Legal opinion concludes that strict liability should not be an issue in the introduction of a new law to criminalise the purchase of sex.

In light of the CC decision it is understandable that policy-makers are concerned to ensure that any new offences are not found to be unconstitutional on the basis of including an element of strict or absolute liability. However the suggested new offence does not include any such element and so would not be at risk of a finding of unconstitutionality on that basis.

Future proposals for reform of criminal law require drafters to be careful that serious offences do not entail an element of absolute liability. However the proposed new offence outlined in this submission is not considered a serious offence as it would carry low maximum penalties and therefore it may be acceptable to include an element of absolute or strict liability based on the rationale of the CC judgement.

Based on the presumption that the new offence would assume mens rea ‘guilty mind’ it would most likely take 2 parts (a) the intention to obtain the sexual service (b) the knowledge the service was being offered by way of prostitution. In order for the transaction and the sexual act to take place, a certain degree of intention will always be present, as the defendant will have to engage in at least some form of discussion with the person offering the sexual service by way of prostitution. Therefore a certain minimum degree of intention (mens rea) will always be present and similarly, in order to obtain the sexual service the accused person would ordinarily need to be aware that it was obtained by way of prostitution.
APPENDIX 5

Ireland’s Obligations under International Law which address the issue of prostitution from a human rights perspective

These instruments qualify prostitution as a form of violence against women, an obstacle to equality between women and men, an obstacle to human dignity, or a violation of human rights. Ireland has ratified almost all these instruments, and should join the 18 other EU Member States which have ratified the 1949 UN Convention.

United Nations
1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others – “Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person” (Preamble) Articles 1, 2 and 6

1989 Convention on the Rights of the Child – Articles 34 and 35

1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – Article 6

1992 CEDAW General Recommendation No. 19 on Violence against Women – Article 6

1994 Plan of Action for the Elimination of Harmful Traditional Practices affecting the Health of Women and Children

2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the UN Convention against Transnational Organised Crime (The Palermo Protocol) – Article 9

European Parliament
European Parliament Report of 17 January 2006 on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation

European Parliament resolution of 2 February 2006 on the current situation in combating violence against women and any future action

European Parliament resolution of 26 November 2009 on the elimination of violence against women

European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women

Council of Europe
2005 Council of Europe Convention on Action against Trafficking in Human Beings (entered into force in 2009) – Article 6

UN Special Rapporteur on Trafficking in Persons, Especially Women and Children

Submission of the European Women’s Lobby to the Joint Oireachtas Committee on Justice, Equality and Defence, on ‘Review of Legislation on Prostitution’.
Reference List


Kelleher et al (2009), Lawless 2005 The Next Step Iniative Ruhama


RTE Prime Time (February 2012), Profiting From Prostitution, www.rte.ie/news/av/2012/0207/primetime.html#page=2

Swedish Government Website: http://www.regeringen.se/sb/d/13358/a/149231.


US TIP (Trafficking in Persons) Report 2010
Dear Chairperson / Committee Members,

APT – Act to Prevent Trafficking is a faith-based non-governmental organisation working to end human trafficking, with a particular focus on those trafficked for sexual exploitation. In addition to awareness-raising initiatives, it looks for effective legislation to prevent trafficking and provide better conditions of recovery for victims. APT has active links to similar groups at European and global level.

APT welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’ and appreciates the breadth of information it contains, as well as the objective and detailed manner in which it sets out the case for and against the various ways of legislating on prostitution.

We believe that demand is the primary driving force behind sex trafficking. The way in which the state addresses the legal status of prostitution will have an enormous impact on efforts to curb trafficking. For this reason we recommend that the purchase of sex be criminalised.

APT would be willing to present its case in more detail before the Committee if called upon to do so.

Yours sincerely,

Síle McGowan, Mary Ryan & Sheila O’Gorman

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Written submission on Review for Legislation on Prostitution

Link between Sex Trafficking and Prostitution

- APT has seen that prostitution and sex trafficking are inseparably linked. The recent RTE Prime Time programme showed what a thin dividing line there is between the two. Women who allegedly entered the trade willingly had little or no freedom to consent. Poverty, coercion, deception – these are factors as is evidenced by research. (Kelleher et al 2009)

- The sex ‘industry’ does not differentiate between free and forced participation, and neither do those who buy children, women or men in prostitution.

- The so-called sex trade, as well as the crime of sex trafficking, is a form of contemporary slavery and appears to be growing in the 21st century.

- APT holds that it is important for legislators to address prostitution as a root cause of sex trafficking.

 Trafficking and Prostitution of Children

- A report by the Anti-Human Trafficking Unit (Dept of Justice and Equality) on human trafficking stated that in 2010 out of the 56 victims of sexual trafficking 15 were minors. In 2011 the figures were 8 out of 37.

- 75% of women in prostitution became involved when they were children. (Women’s Resource Centre, 2008).

Demand for sexual ‘services’

- APT (Act to Prevent Trafficking) believes that demand - the demand of the buyers for sexual satisfaction without responsibility - is the primary driving force behind sex trafficking and prostitution,

- Without this demand it would not be profitable for pimps, recruiters or traffickers to seek out a continuous supply of vulnerable people to exploit.

- APT takes the view that prostitution is sexual exploitation, violence against the person and a grave violation of basic human rights. The practices are extremely oppressive (e.g. Prime Time documentary, Farley et al 2003, Raphael & Shapiro, 2002, Sullivan, M. 2005).

- Reports from the UN, UNESCO and the European Commission show that where prostitution is legal as in the Netherlands, Austria and Germany, the demand for prostituted women and girls is such that the local market cannot cope.

- Where prostitution is considered as ‘work’ sex migration becomes easy when girls and women can be coerced into demonstrating that they are coming for employment, or that they will be self-employed.

- Targeting the demand for the purchase of sex would lead to a decrease in prostitution, thereby allowing An Garda Siochana to focus on persistent and organised crime. Contrarily, where prostitution has been legalised, the illegal trade in sex has increased, especially through human trafficking.

- Therefore our key recommendation is to criminalise the purchase of sex, while decriminalising the seller – as in the Swedish model. The positive effects of this have been shown in the Swedish High Level Evaluation. (Erkberg 2008)
Present Legislation

- Present legislation on prostitution in Ireland is based on considerations of public order and the sensibilities of ‘ordinary’ citizens with no concern for the well being of those prostituted.

- Whereas the Criminal Justice (Human Trafficking) Act 2008 has made it an offence to purchase sex from identified trafficked victims, the burden of proof imposed on the State has been such that there have been no prosecutions to date. This measure is an ineffective deterrent for buyers of sex.

Terminology

- Today, the terms sex industry/trade, sex work and sex workers have become current and imply an honourable status to what has been shown to be the worst form of physical, emotional and psychological abuse to which a human being can be subjected.

- To call it work is to degrade the notion of ‘decent work’ as set out by the ILO: Decent work has been defined by the ILO and endorsed by the international community as being productive work for women and men in conditions of freedom, equity, security and human dignity... (http://www.globalunions.org/IMG/pdf/WDDW_brochure.en.pdf)

- To legalise and regulate prostitution as sex work would allow criminals and members of organised crime rings to become legitimate businesspeople with the state sanctioning the marketing of people’s bodies, something that would be repugnant to many, if not most, people.

- The myth that male sexuality must be provided with/is entitled to/ a category of women, called prostitutes, who are legitimate targets for rape and sexual exploitation is still prevalent. We consider that to legalise prostitution would add State support to and justify this gender-based fallacy.

To Reiterate:

Prostitution is a demand market created by those who buy another’s sexuality for their profit and pleasure. It treats people as merchandise, a legitimate commodity, something that is completely repugnant to the Irish Constitution. APT strongly recommends the criminalisation of the buying of sex as a necessary first step in addressing sexual exploitation in both prostitution and human trafficking.

Other Considerations

Discussion Document on Future Direction of Prostitution Legislation P.52 Q. 11 re: the ‘...undesirable social consequences..’

- Stigma is associated with any crime, and is a reflection of the views held by society in general with regard to that activity. If one uses this as an argument in the case of prostitution, why not in the case of any other crime? In fact a criminal record, including the risk of public exposure has been identified by the buyers as a reliable deterrent of their actions. (Farley et al, 2011 & McLeod et al 2008)

Q.13 re: ‘..discourage buyers from reporting suspicions.’

- An Garda Siochana provides a confidential Garda phone and an email address.
Recommendations

A society is judged by how it supports the most vulnerable in the community. Taking steps to prevent the exploitation of vulnerable women and girls, boys and men through prostitution sends a message that Ireland is a country where it is not acceptable for one person of means to buy another purely for their own sexual satisfaction.

We recommend:

1. Criminalising the purchase of sex, and those who promote and benefit in any way from this trade, e.g. pimps, brothel owners, and landlords who allow their premises to be used for prostitution. This deterrent would be strengthened were respect for the equality and dignity of all citizens to be upheld as a rationale for such legislation.

2. Decriminalising those who sell sex, and the provision of support services to assist victims of trafficking and those who wish to exit prostitution, so that they can provide for their needs with dignity and without the threat of exploitation, abuse or violence.

3. Regulation of the role of the Internet and social media in promoting prostitution and sex trafficking.

4. Introduction of public awareness education and programmes to send out a clear message that it is not acceptable for vulnerable people to be treated as commodities to be bought and sold for the sexual pleasure of others.

5. An inter-departmental approach with Justice, Health, Social Welfare and Education departments working in collaboration to promote social and cultural initiatives to deter the demand that fosters sexual exploitation.

6. That the many international instruments produced over the past fifty years on human trafficking, violence against women, discriminatory practices, gender equality, and transnational crime to which Ireland has signed up, and ratified in many cases, apply when drawing up legislation, e.g.

   - Convention for the Suppression of the traffic in Persons and of the Exploitation of the Prostitution of Others (1949)
   - Millennium Development Goals
   - The Palermo Protocol (2000) to Prevent, Suppress and Punish Trafficking in Persons especially in Women and Children, supplementing the UN Convention Against Transnational Organised Crime,
   - UN Commission on the Status of Women (2005) CSW
SUBMISSION

to

THE JOINT OIREACHTAS COMMITTEE ON JUSTICE, EQUALITY and DEFENCE

in relation to

THE REVIEW OF LEGISLATION ON PROSTITUTION

on behalf of

ONE IN FOUR

August 2012
Introduction

One in Four is a national charity that supports men and women who have experienced sexual violence. We provide a range of services including counselling and advocacy programmes for victims, treatment for sex offenders and a family support programme. We work with almost 1,000 survivors each year.1

One in Four works exclusively with the issue of sexual violence. It is our submission that prostitution and trafficking of women and children for sexual exploitation form part of a continuum of sexual violence and should be understood and addressed as such.

1. Prostitution: The Facts

• Prostitution is Harmful

Whilst levels of apparent vulnerability and coercion differ, all women and children sold in prostitution are violated and sexually exploited. The line between trafficking and what is termed ‘consent’ is blurred, as are the lines between adult and child prostitution. (Kelleher et al 2009, Dept. of Justice 2010, 2011)

In the prostitution industry, women and children are routinely beaten, raped, sexually assaulted and subjected to isolating and degrading treatment. Many are held in conditions that amount to sexual slavery. The impact on physical and mental well-being is far reaching and includes Post Traumatic Stress Disorder, depression, anxiety, sexually transmitted diseases, and vaginal fissures. This list is not exhaustive. (Farley et al 2004, Farley 2005)

Prostitution is incompatible with gender equality and is therefore harmful to society.

• Prostitution and Consent

It is often argued that adult sex workers freely choose their occupation. However that is to ignore the psychological and emotional factors which influence that choice. Often what is termed ‘consent’ is conditioned by traumatic abuse and violence. It is estimated that up to 45% of women in prostitution have experienced sexual abuse in childhood. The long term impact of sexual abuse includes low self-esteem, shame and overwhelming emotional pain. Survivors may develop a substance addiction in an attempt to self-soothe. It is unlikely that survivors of childhood abuse are in a position to give informed consent to their exploitation.

Women and children who are trafficked for purposes of prostitution describe experiences of extreme coercive violence to ensure their compliance.

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1 See One in Four Annual Reports at www.oneinfour.ie
Prostitution involves feigning pleasure during sexual acts that are unwanted, invasive and abusive. The concept of consent is misused within the sex industry to increase demand.

2. Prostitution and the Criminal Justice System.

Prostituted persons should properly be seen a victims of sexual violence and should therefore be afforded adequate protection under legislation rather than be criminalised. Given the extensive media coverage of the issue of trafficking, it is hardly credible that buyers of sexual services could be unaware that they are exploiting a person who is living in a state of sexual slavery. Buyers of sexual services should therefore be liable for prosecution. The criminal justice code should create strict liability to the person buying the service and strengthen the current trafficking legislation nullifying the defence that the buyer did not know the prostituted person was trafficked or coerced.

Legislation forms part of the norms in our society. The law both mirrors and shapes our values and attitudes. We can see in how, in the recent past in Ireland, legislation has precipitated a major shift in public attitudes and perceptions. Examples include the decriminalisation of homosexuality and the introduction of the criminal offence of marital rape. On the other hand, if prostitution were to be legalised in Ireland the sex industry would gradually become normalised, demand may grow, and trafficking and sexual exploitation may increase. Conversely, criminalising the buyer would deepen awareness that prostitution is exploitative, harmful and incompatible with gender equality. This is evidenced in the Swedish context. The potential of disclosure and a criminal record has been identified by buyers themselves as a deterrent. (Farley et al 2009)

Sweden criminalised the purchase of sexual services in 1999 and this has proven to be effective in reducing the demand and therefore, the numbers of persons exploited in prostitution and the numbers of persons trafficked into the country. It has also led to a change in attitude towards men who purchase sex. (Dept. of Justice, Stockholm 2010) This is in sharp contrast to the situation in The Netherlands where legalising prostitution resulted in a massive increase in sex trafficking.

3. Recommendations

A. Responses to questions posed on pages 51 and 52 of the Department of Justice and Equality Discussion Document on Future Direction of Prostitution Legislation

1. The law has a role to play in addressing the purchase and sale of sexual services because this practice is harmful, constitutes violence against prostituted persons and is incompatible with gender equality.
2. Social policy objectives including gender equality, the protection of prostituted persons and awareness raising with regard to the harm of prostitution as part of a continuum of sexual violence support the partial criminalisation approach.

3. We do not have a considered position in relation to this.

4. A ban on purchasing sexual services would reduce demand whilst avoiding criminalising vulnerable persons.

5. Criminalising the demand has been shown to reduce the demand.

6. Reducing demand for sexual services reduces the trafficking of persons for sexual exploitation.

7. Prostitution cannot be made safe by legalisation or regulation. Prostitution cannot be treated as a type of employment and regulated as such. Legalisation has been shown to increase demand, normalise the industry and does not protect the most vulnerable women and children involved in the ‘underground’ aspects of the industry.

8. Purchasers of sex would have the right to a trial in the same way as every other citizen charged with an offence. The seller in the prostitution transaction is a vulnerable person and should not be charged with an offence.

9. The issue of blackmail should it arise, could be addressed within the current legislation applying to that offence.

10. The vast majority of those involved in the sex industry are vulnerable persons who are either coerced or their life choices are severely constrained.

11. In view of the harm of sexual violence for the individual and for society the consequences of purchasing sex should be serious enough to act as a deterrent.

12. The knock on effects for innocent parties and family members are a concern however inadequate legislation or ignoring the harm of sexual violence is not the appropriate way to address this.

13. Evidence points to the fact that buyers of sexual services are often indifferent to the coerced status of the prostituted persons, so irrespective of the legislative position, buyers may not be inclined to report such suspicions.

14. An Garda Siochana and the Director of Public Prosecutions may be best suited to respond to this.

15. An Garda Siochana and the Director of Public Prosecutions may be best suited to respond to this.

16. Sexual violence and exploitation including prostitution and trafficking warrant the targeting of Garda resources.

17. Human trafficking and organised prostitution is inextricably linked to the sex industry in general so as outlined the above reply, warrant targeted Garda resources. Criminalising the buyer would reduce the demand and therefore the industry would shrink allowing Gardai over time, to prioritise other areas of crime.

18. (h) All criminal records relating to soliciting and the sale of sexual services should be expunged in order to remove barriers to persons wishing to leave prostitution
B. Criminalisation
One in Four recommends a partial criminalisation approach where only some aspects of prostitution are criminalised. We recommend adopting the Swedish model of criminalising the buyer of sexual services and those who manage and organise the industry. Total criminalisation, whereby all parties are criminalised, does not take account of the vulnerability of (mainly) women involved in prostitution as discussed above. Decriminalisation and legalisation cannot make a practice that is inherently harmful and exploitative safe for women.

C. Penalties
The penalties for organising prostitution should take account of the harmful effects of prostitution both for the individual and for society and act as an adequate deterrent. The penalties applying in relation Section 5 of the Criminal Justice (Public Order) Act 2011, may be appropriately considered in conjunction with penalties for other offences which may accompany the organising of prostitution including rape and sexual assault, assault, threats etc.

D. Awareness and Treatment
Raising awareness in those who purchase sex from prostituted persons as well as in society at large of the harm caused by prostitution is vital if this lucrative trade is to be meaningfully addressed and vulnerable women and children to be spared from harm.

Treatment and education should be offered to men who are suspected of/ charged with / and/or convicted of, buying sexual services. This needs to be accompanied by a population wide awareness campaign.

Support services for women and children engaged in prostitution are vital in enabling people to leave the industry and recover from the impact of the work.

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References

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Farley et al 2004: Prostitution and Trafficking in Nine Countries: an Update on Violence and PTSD

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Farley et al 2009: Men Who Buy Sex: Who They Are and What they Know

Kelleher et al 2009: Globalisation, Sex Trafficking and Prostitution: Experiences of Migrant Women in Ireland
Submission Cover Sheet: 
Joint Oireachtas Committee on Justice, Defence and Equality 
‘Review of Legislation on Prostitution’

31st August 2012

Overview
Nasc, the Irish Immigrant Support Centre, is a non-governmental organisation working for an integrated society based on the principles of human rights, social justice and equality. Nasc (which is the Irish word for link) works to link migrants to their rights through protecting human rights, promoting integration and campaigning for change. The information we present in this submission is based on our experiences working with migrants, in particular cases where migrant women and children have been trafficked into Ireland for sexual exploitation. We are especially interested in how prostitution legislation will impact and affect victims of trafficking and sexual exploitation and address their long term needs for support and protection.

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A representative of Nasc is willing to appear before the Committee in a public session to discuss the arguments made in this submission.
Submission to Joint Oireachtas Committee on Justice, Defence and Equality: ‘Review of Legislation on Prostitution’

(i) Introduction

Nasc, the Irish Immigrant Support Centre, is a non-governmental organisation working for an integrated society based on the principles of human rights, social justice and equality. Nasc (which is the Irish word for link) works to link migrants to their rights through protecting human rights, promoting integration and campaigning for change. Nasc was founded in 2000 in response to the rapid rise in the number of asylum seekers and migrant workers moving to the city of Cork. It is the only NGO offering legal information and advocacy services to immigrants in Ireland’s second city. Nasc’s legal team assist some 1,000 immigrants annually in navigating Ireland’s protection, immigration and naturalisation systems. We also assist migrants and ethnic-minority Irish people who encounter community-based and institutional racism and discrimination.

Nasc welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’, and further welcomes the opportunity for organisations and individuals to make submissions and have an impact on the development of any future legislation. Nasc is a member of the Turn Off the Red Light Campaign and supports their call to criminalise the purchase of sex. The information we present in this submission is based on our experiences working with migrants, in particular cases where migrant women and children have been trafficked into Ireland for sexual exploitation. We are especially interested in how prostitution legislation will impact and affect victims of trafficking and sexual exploitation and address their long term needs for support and protection.

(ii) Information

As a migrant NGO, we focus our factual information on the situation of migrants in relation to trafficking, or more specifically, trafficking for sexual exploitation, as it relates to the review of
prostitution legislation.¹ Migration has had a significant impact on the sex industry globally and in Ireland and the existing legislation does not reflect this global reality. Migration and sexual exploitation are structurally linked, and woman and children bear the brunt of this violence worldwide. Numerous studies have shown that human trafficking for the purposes of sexual exploitation is a means of supplying the sex industry, as up to 80% of people trafficked worldwide are “destined for the sex services market.”² In Ireland, between 83-97% of people engaging in prostitution are thought to be migrant women and children.³ As Kelleher et al. note, ‘the trafficking of women into the sex industry and the recruitment and exploitation of migrant women into prostitution are intertwined and need to be understood in the context of global labour migration.’⁴

At Nasc, we have provided some supports to victims and suspected victims of trafficking and sexual exploitation. We also have extensive anecdotal evidence of the relationship between trafficking and sexual exploitation among migrant women and children in Ireland, particularly in Cork. From this work, we are well aware of the limitations of the current legislation on prostitution and trafficking in combating trafficking and sexual exploitation and in providing the necessary supports and protections for victims. Depending on their cultural and ethnic backgrounds and their previous experiences, migrant women and children (both trafficked and non-trafficked) can be particularly vulnerable to poverty, social exclusion and sexual exploitation. Victims of trafficking and sexual exploitation often do not know where to seek support, are fearful of disclosing their identities or situations, and in many cases go underground rather than seek out help from the authorities or support services. We believe the current conditions are not facilitating or promoting opportunities for identification and disclosure and thus extremely vulnerable women and children are not receiving the appropriate protection and support. Any changes to legislation must take these most vulnerable women and children into account and prioritise their needs, health and well-being.

**Criminalisation of the Purchase of Sex**

It is the buyer of sex who fuels the profits of traffickers and perpetuates the exploitation of women and girls. We believe that the criminalisation of the purchase of sex will act as a deterrent to those who purchase sex. Surveys of men who pay for sex confirm that the

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¹ When referring to victims of trafficking, we include those who fall under the ‘Palermo Protocol’ definition of human trafficking as well as those who are smuggled or recruited under false or deceptive pretences that end up working in the sex industry. See Kelleher et al., *Globalisation, Sex Trafficking and Prostitution: The Experience of Migrant Women in Ireland* (2009), available at: [http://www.immigrantcouncil.ie/images/stories/Trafficking_Report_FULL_LENGTH_FINAL.pdf](http://www.immigrantcouncil.ie/images/stories/Trafficking_Report_FULL_LENGTH_FINAL.pdf).


³ Kelleher et al., 2009

⁴ Kelleher et al., 2009, p. 12
greatest deterrent to buying sex is criminal sanction and/or risk of exposure.\(^5\) Criminalisation will thus bring about a reduction in demand, which will lead to a decrease in the numbers of women and girls trafficked for prostitution. In Sweden, where the purchase of sex has been criminalised, studies have shown a significant reduction in trafficking and prostitution.\(^6\) The success of the law in Sweden has resulted in the introduction of similar legislation in Norway and Iceland, and the criminalisation of the purchase of sex is now also being considered in Northern Ireland, Scotland and other EU regions.

Research from Sweden has shown that the criminalisation of the purchase of sex will also have an impact on organised crime. The sex industry in Ireland is inextricably linked to organised crime – trafficking alone is one of the most lucrative international criminal enterprises worldwide. According to Kelleher et al., the demand from those who purchase sex, which fuels the trafficking of women and girls for sexual exploitation, profits an industry worth approximately €180 million a year in Ireland.\(^7\) Recent televised documentaries on RTÉ and TV3, and the well-publicised Carroll case made the connections between prostitution, trafficking and organised crime abundantly clear.\(^8\) The 2012 Trafficking in Persons Report, produced by the US Department of State, describes Ireland as a destination, source, and transit country for women, men and children subjected to sex trafficking.\(^9\) In contrast, the National Criminal Police in Sweden believe that the criminalisation of the purchase of sex has acted as a significant barrier to traffickers, and Sweden is now described as a ‘bad market for trafficking’.\(^10\) Thus, criminalising the purchase of sex will diminish the demand, lower rates of trafficking and reduce related criminal activities.

Further, legislation not only functions as a direct deterrent, but it can be an effective way to influence behaviours and norms. Since Sweden criminalised the purchase of sex and


\(^{\text{Kelleher et al. 2009}}\(^7\)


decriminalised prostitutes in 1999, the majority of Swedish society has come to view prostitution as exploitative and incompatible with equality. Changing legislation can impact societal attitudes and treatment towards women – the criminalisation of the purchase of sex would show that Irish society as a whole rejects the idea that is acceptable for women to be bought, sold and traded as commodities.

Decriminalisation of Prostitutes
To work effectively at targeting demand, the criminalisation of the purchase of sex must occur in connection with the decriminalisation of prostitutes. This includes the laws currently in place in Ireland under the 1993 Criminal Law (Sexual Offences) Act, which prohibits soliciting or loitering for the purposes of prostitution, living on the earnings of prostitution, and brothel keeping. Bindel and Kelly report that this law is currently being used to target prostitutes and not their clients. Further, they suggest this tendency to criminalise prostitutes rather than the buyers under the current legislation has had a negative impact on women’s willingness to approach the Gardaí and report abuse or other illegal activity. Reflecting policing away from prostitutes and towards buyers will potentially open up avenues for victims of trafficking and sexual exploitation to communicate with the Gardaí and access much-needed support services.

Decriminalisation as it relates specifically to migrant women is especially important, as migrant women are particularly vulnerable to incarceration based on a variety of factors such as forced involvement in criminal activities (such as prostitution) after being trafficked, fraud in relation to the immigration process, working without a proper work permit, and other factors. A recent study from the UK has shown that 56% of the migrant women in prison involved in the study (n: 58 out of 103) had been trafficked, and 20 of those women (19%) had been forced to work in prostitution. The study further noted that very few of the women, who according to the researchers had all of the key indicators of having been trafficked, had been identified as trafficked by the criminal justice system. This represents a significant failure on the part of the authorities to provide the appropriate response to trafficking. How many trafficked women and children are slipping through the cracks of the criminal justice and immigration systems in Ireland and not receiving the appropriate supports?

12 Bindel and Kelly, ‘A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden’ (2003), available at: http://www.glasgow.gov.uk/nr/rndonlyres/c19e010b-1aaf-4918-97bd-f96af7d7f130/0/mainreport.pdf.
The Criminal Justice (Human Trafficking) Act
The introduction of the Criminal Justice (Human Trafficking) Act 2008 made it an offence to purchase sex from an indentified victim of trafficking. However, buyers of sex can only be held accountable when they knowingly purchase sex from a trafficked person. According to Section 5.4 of the Criminal Justice (Human Trafficking) Act, 2008, the buyer cannot be held accountable if they claim they were not aware they were purchasing sex from a person who qualified as a victim of human trafficking. This effectively lets the purchaser off the hook, and there have been no prosecutions to date for purchasing sex from a victim of trafficking.

Studies have shown that men are aware of the potentially coerced/trafficked status of the women from whom they buy sex, but this does not affect the men’s decision to purchase sex from them.\textsuperscript{14} It is clear therefore that any criminalisation of the purchase of sex would also require reforms to the current legislation on trafficking. We suggest modelling it on the UK’s Crime and Policing Act, 2009, which makes the purchase of sex from a ‘controlled’ individual illegal, even if the purchaser does not know the individual was ‘controlled’.\textsuperscript{15} This would make Ireland’s trafficking legislation more in line with international instruments in the tackling of human trafficking, especially for the purposes of prostitution.

Children
A 2009 report published by the Immigrant Council of Ireland looking at sex trafficking among migrant women found that 11 of the 102 studied cases involved girls under the age of 18.\textsuperscript{16} The Anti-Human Trafficking Unit’s annual statistics show that out of 56 victims of sex trafficking identified in 2010, 15 were minors, and 8 out of 37 in 2011.\textsuperscript{17} As noted in the Department of Justice and Equality’s ‘Discussion Document’, a number of international legal instruments address child prostitution.\textsuperscript{18} Any legislation on prostitution should include specific measures addressing child prostitution, child trafficking and child protection.

Trafficking a Human Rights Issue
Any changes relating to the criminalisation of prostitution must have a victim-centred approach that treats trafficking as a human rights issue, not as an immigration issue. This means focusing on the victim of trafficking and their complex needs in the aftermath of trafficking and exploitation, as opposed to focusing on the person’s immigration status. According to Sarah

\textsuperscript{14} Farley, Bindel, Golding, 2009
\textsuperscript{15} According to Part 2, Sections 13 & 14 of the Act. See also Department of Justice and Equality, \textit{Discussion Document on Future Direction of Prostitution Legislation}, p. 13
\textsuperscript{16} Kelleher et al., 2009
\textsuperscript{17} Anti-Human Trafficking Unit Annual Reports, 2010 and 2011, available at: \url{http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/whatisbeingdone-datastrategy-en}
\textsuperscript{18} Discussion Document, p. 24
Benson, the CEO of Ruhama, ‘the over-reliance on the immigration system to detect victims of trafficking and the fact that most victims are forced to make their own escape from traffickers if they are to access help, results in a relatively low number of victims receiving assistance in Ireland.’19

Victims of trafficking require support in the aftermath of their experience. Victims experience profound physical and psychological trauma as a result of being trafficked, especially those who are put to work in the sex industry. Sexual exploitation can have a devastating impact on the physical and mental well-being of the victim.20 Practicing prostitution can result in chronic beatings, rape, sexual assault and degrading treatment. It can cause infertility, unwanted pregnancy, STIs (sexually transmitted infections) and other gynaecological and health problems, including an increased risk of HIV. It can also erode self-esteem, self-confidence, cause depression, feelings of loneliness and isolation, and symptoms of post-traumatic stress disorder. Further, victims of trafficking are often originating from situations of extreme hardship caused or exacerbated by such factors as war, discrimination, poverty, natural disaster and internal conflicts.21 Types of necessary support for victims of trafficking and sexual exploitation include: medical help; psychological counselling; legal assistance; shelter and everyday care; education, training and work opportunities; and assistance with residency and/or repatriation.

Despite the positive efforts of the Anti-Human Trafficking Unit and NGOs working in this area, only very few victims of trafficking are identified and supported each year, which means that only these few individuals are receiving support and assistance in their recovery. And when victims of trafficking are identified by the Gardaí, these victims are often forced to cooperate in criminal investigations under risk of criminal sanction or deportation. Victims should not have support and assistance, or even long-term residency, contingent on cooperation with the authorities in criminal investigations. Victims of trafficking should not be detained or imprisoned as a result of immigration violations or criminal activities relating to prostitution – they should be identified as being trafficked and given the appropriate protections and supports. Repatriation should not be the default option for victims of trafficking; the opportunity to gain residency status in Ireland should always be considered, as it has been shown that victims of trafficking who are repatriated run a high risk of being re-trafficked.22

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20 Kelleher et al., 2009
Further to treating trafficking as a human rights issue, any legislative and other changes must have a victim-centred approach, and must incorporate ongoing consultation with victims of sexual exploitation and trafficking, as well as sex workers (i.e. individuals who sell sexual services as consenting adults who do not define themselves as trafficked, exploited or otherwise controlled). Taking a victim-centred approach and engaging in consultation in the institution and evaluation of any legislation and support services could function along the lines the New Zealand government’s relationship with the New Zealand Prostitutes Collective, but expanding that model to include a specific engagement with victims of sexual exploitation and trafficking. We must shift the focus away from dealing with victims of trafficking and sexual exploitation as issues for immigration or criminal control, and towards comprehensive support and protections that take into account victims’ human rights and well-being.

(iii) Recommendations

Based on the factual information provided above, Nasc recommends the following in relation to a review of the prostitution legislation:

- Criminalisation of the purchase of all forms of sexual services along the lines of the ‘Swedish Model’, with the corresponding removal of any legislation which targets the prostitute or victim of trafficking/sexual exploitation
- Any changes relating to the criminalisation of prostitution must be victim-centred and provide any other necessary reforms to trafficking legislation
- Trafficking must be dealt with as a human rights issue, not as an immigration issue, particularly in relation to issues such as residency, repatriation and cooperation in criminal investigations
- Comprehensive and holistic support and protection for victims of sexual exploitation and trafficking
- Ongoing consultation directly with victims of sexual exploitation, trafficking and sex workers

The criminalisation of the purchase of sex is not a perfect response to the problem of human trafficking, but evidence from Sweden shows that it is certainly a good start. However it must be implemented in the context of other strategies to target trafficking, such as concerted international efforts to arrest and prosecute traffickers. Other necessary factors include those which we have discussed above, such as clarifying or amending the existing trafficking and

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See Discussion Document, p. 21
prostitution legislation, treating trafficking as a human rights issue and providing comprehensive support and protection for victims of trafficking and sexual exploitation.

Perhaps the greatest success of the criminalisation of the purchase of sex in Sweden to date has been the apparent shift in public attitudes around prostitution and trafficking. Prostitution and trafficking are not inevitable, unchangeable aspects of our society. We can and must make changes in legislation, support services, and attitudes with regards to the inhuman and degrading treatment of women and girls that comes from turning a blind eye to the purchase of women’s bodies. Any changes in legislation must be part of a holistic, victim-centred approach that provides support and protection for victims of sexual exploitation, especially victims who have been trafficked into this country illegally and who have likely experienced tremendous physical, mental and emotional suffering.

(iv) Further Information

For further information or clarification of any of the above, please do not hesitate to contact Jennifer DeWan, Communications and Campaigns Officer, Nasc, the Irish Immigrant Support Centre at: (021) 4317411 or jennifer@nascireland.org.
Ref: CT/NS

30 August 2012

Re: INMO Submission Paper - “Review of Legislation on Prostitution”

Dear Deputy,

The INMO is a registered trade union which provides industrial, professional and educational advice, support and representation for more than 40,000 nurse and midwife members. We are affiliated to a number of national and international organisations and our membership is 95% female.

As a female dominated health trade union we are writing to you to express our deep concern at the growth of the sex industry and the subsequent and undeniable exploitation of women, both migrant and Irish. While recognising specific legislation and policy initiatives have been introduced in response to the issue of trafficking, the INMO maintains more attention is required by the State specifically targeting the prostitution industry. It is not right to make a distinction between trafficking and prostitution as both exist on a continuum of exploitation.

It is unacceptable for someone to buy another’s body for sexual gratification, exploiting the poverty, past history of abuse or limited life choices of the person being bought. In this regard we became the first trade union to support the ‘Turn off the Red Light Campaign’ which is a collective of 50 organisations lobbying for legislative change so that those who buy or facilitate the purchase of sex are targeted and criminalised.

You will be aware of the current consultation process underpinning the Discussion Document on Future Direction of Prostitution Legislation recently published by the Department of Justice which outlines a number of legislative options. In this regard the INMO has made a submission expressing its support for Option 2b which in effect is the Swedish model where the buyer of sex is criminalised.

We ask you to support this position and please find enclosed the INMO Submission Paper for your consideration.

Yours sincerely,

[Signature]

Clare Treacy

Director of Social Policy, Regulation & Recruitment
Submission

to

Joint Oireachtas Committee on Justice, Equality and Defence

‘Review of Legislation on Prostitution’

Summary of Submission

The INMO believes that the Swedish model of partial criminalisation where the buyer of sex is criminalised is the most appropriate legislative option.

prepared by

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31 August 2012

Yes the INMO is willing to appear before the Committee
Introduction

The INMO welcomes the opportunity to submit its response to the Department of Justice and Equality Discussion Document on Future Direction of Prostitution Legislation.

The INMO is a registered trade union which provides industrial, professional and educational advice, support and representation for more than 40,000 nurse and midwife members. We are affiliated to a number of national and international organisations including the Irish Congress of Trade Unions, the National Women’s Council and the International Council of Nurses. Our membership is 95% female. This paper was prepared by the Social Policy Committee of the INMO Executive Council.

In 2009, Monica O’Connor co-author of Globalisation, Sex Trafficking and Prostitution: The Experience of Migrant Women in Ireland addressed the Executive Council of the INMO. The Council immediately endorsed the work of the Turn off the Red Light Campaign (TORL) and in doing so became the first trade union to support the campaign. In 2010 Sr. Stanislaus Kennedy gave the keynote address at the INMO Annual Delegates Conference and received a standing ovation from the 350 nurses and midwives who steadfastly endorsed her position on prostitution and trafficking. The conference adopted a motion of support for the campaign and called for the introduction of legislation to prosecute the buyer of sex.

Many other unions have since joined the campaign. The ICTU women’s conference and the biennial conference of ICTU carried a resolution condemning prostitution and trafficking.

The INMO rejects in the strongest of terms that prostitution is inevitable. It is a common cliché to refer to prostitution as ‘the oldest profession in the world’, however this does not address the physical, mental and emotional suffering that is endured by women in prostitution.

The position of the INMO is clear: it is unacceptable for someone to buy another’s body for sexual gratification, exploiting the poverty, past history of abuse or limited life choices of the person being bought. We favour the approach referred to as option 2(b) partial criminalisation, in the Department of Justice discussion paper. This is the approach in force in Sweden, where those that buy or facilitate the purchase of sex are targeted and criminalised.

This submission makes three distinct points. Firstly it is not right to make a distinction between trafficking and prostitution as both exist on a continuum of exploitation. Secondly we maintain prostitution cannot be considered ‘work’ and any attempt to represent it as such, only perpetuates the myth that an element of choice exists for these women. Thirdly there are significant negative effects on the health and wellbeing of women involved in prostitution, which can only be effectively addressed by working to eradicate prostitution.

Trafficking and Prostitution

1. The Irish sex industry is lucrative and estimated to be valued in excess of €180 million per annum, thus explaining why it is of such interest to many. Recent research states large numbers of women are being trafficked into Ireland for the sole purpose of sexual exploitation.
There are more than 1,000 women available through the internet and involved with indoor prostitution. Ireland is a destination country for trafficked women with a staggering 97% of women available through the internet being migrants (Kelleher et al 2009). The Irish sex industry is growing and that growth is fuelled by international traffickers, Irish pimps and buyers with the links between organised crime and the sex industry widely acknowledged.

2. Many trafficked women are recruited with promises of employment opportunities, often in the hotel industry, entertainment or domestic services and most are subjected to grooming, bullying and violence (Kleemans, 2009). Gender inequality, globalisation, poverty, and the collapse of women’s economic stability in poorer regions of the world are creating the conditions in which vast numbers of women and girls are forced into the sex industry.

3. As a female dominated health trade union the INMO is deeply concerned at the growth of the sex industry and the subsequent and undeniable exploitation of women, both migrant and Irish. We recognise the government has introduced specific legislation and policy initiatives to respond to the issue of trafficking with the introduction of the Criminal Law (Human Trafficking) Act 2008; the establishment of the anti-human trafficking unit within the Department of Justice and a National Plan to combat trafficking. We argue however that more attention is required specifically targeting the prostitution industry. Extensive research highlights poverty, family loss, homelessness, drug addiction and a history of physical and sexual abuse are contributory factors that make young women vulnerable to being recruited by pimps and/or traffickers into prostitution (Barnardos, 1998).

4. We maintain prostitution and trafficking are so closely linked that in fact no clear distinction can be made. Both operate on a continuum of exploitation with pimps and traffickers being the benefactors. The women are subjected to unacceptable degrees of sexual violation and inhumane treatment and in our view deserve more robust protection from the State.

5. There is no clear line between where the elements of trafficking end and “consent” to become involved in the sex industry begins. Many of the women who are involved in Ireland’s sex industry, which do not meet the definition of a victim of trafficking, had no real choice – poverty and life circumstances, combined with deception and gross exploitation, are evident in many of their stories (Kelleher et al 2009).

6. The argument that women make a choice to enter prostitution does not stand up to scrutiny. The situation whereby adults in the absence of any degree of control or duress, or lack of alternatives, agree to exchange sex for money, seldom occurs. Once in prostitution, 9 out of 10 surveyed women would like to exit but feel unable to do so (Farley et al, 2003)

7. In Sweden, where they have criminalised the buying of sexual acts, there has been a significant reduction in trafficking and prostitution with a halt in the recruitment of new women.
8. Legislation can change attitudes as evident by the smoking ban, civil partnership bill and drink driving initiatives. A whole generation of young people has grown up in the last decade in Sweden, where it is considered unacceptable for the bodies of women and girls to be bought by others for their sexual satisfaction. 70 percent of Swedes support this law on the basis that prostitution is exploitative and incompatible with equality (The Swedish Institute 2010). As a female dominated trade union we believe that this is a most compelling argument to introduce legislation which supports gender equality.

Is prostitution work?

1. A number of debates have taken place within the trade union sector both in Ireland and internationally asking if sex work should be seen as work and should the trade union movement represent such workers? Some countries such New Zealand has regulated and liberalised the laws on prostitution. This has allowed for representative organisations and/or support groups to be established such as the New Zealand Prostitutes Collective which is funded by the Government and maintains a database of all sex workers and provides safe sex education. The New Zealand Prostitutes Collective, which no doubt performs an important role, in our view cannot be seen as a trade union and is more akin to a government funded support group.

2. The desire by some to make sex work a safe and voluntary occupation has fuelled the argument for decriminalisation of the sex industry. Unfortunately, total decriminalisation and efforts to define prostitution as legitimate work in other jurisdictions has not changed the outcome for prostitutes. In Germany an extensive evaluation in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance, the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses, (Kavemann, 2007). A review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation and integrate it into employment law (Farely et al 2003).

3. The INMO is firmly of the view that any attempt to form a prostitute’s trade union is naive in the extreme and would merely give credibility to the mistaken belief that prostitution is a choice. It is not possible to justify calling prostitution a job given the extreme exploitation and the tremendous physical and emotional damage which women in prostitution suffer. There is no doubt that women in prostitution need significant support, including support to exit prostitution and the Government should ensure that sufficient funding is available to the appropriate NGO’s to provide such support.

Health, wellbeing and safety

1. To address the health consequences of prostitution, we must start from the premise that prostitution harms women/girls and that in addition to needing health services, women must be provided with the economic, social and psychological means to leave prostitution.
2. Some advocates believe that the total decriminalisation of prostitution together with the medicalization of the sex industry with mandatory check-up and screening for prostitutes will protect women and provide more favourable health outcomes. Such an approach only serves to legitimise prostitution via the health care system and can only be viewed as a consumer protection for the buyer and will do little to protect the health of women (Raymond, 1999). Interestingly, we were unable to find any research advocating mandatory health screening for the buyers of sex.

3. When we consider that the estimated average age of entry into prostitution is 14, we can assume that the effect on a woman/girl subjected to prostitution is extreme. Few activities are as brutal and damaging to people as prostitution. Involvement of organised crime coupled with the violent nature of prostitution combines to create an extraordinarily unsafe environment.

4. Prostitution has a devastating impact on both the physical and mental well being for those prostituted. It erodes self-esteem, self-confidence, can cause depression and symptoms of post traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other physical consequences (Kelleher et al 2009).

5. The physical health consequences include bruises, broken bones, black eye, concussion and many more. Sexually transmitted disease including, HIV/AIDS, Chlamydia, gonorrhoea, herpes, human papilla virus and syphilis are all prevalent. Infertility, which is often caused by STD’s, is also evident. Research shows that mortality in prostitution is 10 times higher than the general population. Those in prostitution face beatings, rape, sexual assault and degrading treatment. They are usually individuals who are isolated from potential supports (Kelleher et al 2009, Farley et al 2004, Raymond 1999).

6. The psychological and emotional effects are well documented with reports of insomnia, fear, depression, drug and alcohol addiction, eating disorders and an excessive dependence on sedatives.

7. Melissa Farley has identified that the trauma sustained by women/girls in prostitution is akin to and occurs at the same rate as soldiers who have participated in combat (Farley, et al 2003). Such a finding is reason enough for immediate action to protect women in prostitution against such violation of their human rights.

**Recommendations:**

1. The primary purpose of any change in the law relating to prostitution must be to protect those involved against violation of their basic human rights. We believe it is unacceptable for someone to buy another’s body for sexual gratification, exploiting the poverty, past history of abuse or limited life choices of the person being bought.
2. We favour the approach referred to as option 2(b) partial criminalisation, in the Department discussion paper. This is the approach in force in Sweden, where those that buy or facilitate the purchase of sex are targeted and criminalised. As Sweden is no longer an attractive market for traffickers and pimps - the law clearly works as a deterrent (Ekberg, 2008).

3. Legislation can be used to change attitudes as is evident from the equality based approach in Sweden and examples from the Irish perspective. As a female dominated trade union we believe that this is a most compelling argument to introduce legislation from a gender equality perspective. Criminalising the purchase of sex, whilst at the same time decriminalising those who sell sexual acts, combined with offering support services to people in prostitution is the only viable option to work towards an end to this exploitative industry.

4. The INMO is of the view that no distinction should be made between prostitution and trafficking as they do not exist separately but rather are on a continuum of exploitation with both traffickers and pimps exploiting women and girls for profit in this financially lucrative industry.

5. Prostitution is not an 'occupation' or a 'profession' and cannot be seen as 'work'. Any attempt to regulate by the formation of a prostitute's trade union is naive in the extreme and would merely give credibility to the mistaken belief that prostitution is a choice. There is no doubt that women in prostitution need significant support, including support to exit prostitution and we recommend that the Government should ensure that sufficient funding is available to the appropriate NGO's to provide such support.

6. The physical, psychological and emotional effects of prostitution are devastating. Medicalisation of prostitution will not reduce the negative health outcome for women. It will serve only to legitimise the disastrous consequences and risks experienced by women in prostitution. In addition to needing health services, women must be provided with the economic, social and psychological means to leave prostitution.

References:


‘Learning from Sweden’ Presentation at the High level Working Group on Human trafficking at the Anti-Human trafficking Unit, Department of Justice and Equality (2010).
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INTRODUCTION

Women’s Aid is a leading national organisation that has been working in Ireland to stop domestic violence against women and children since 1974. We work to make women and children safe from domestic violence, offer support, provide hope to women affected by abuse and work for justice and social change. Over the course of almost 40 years the organisation has built up a huge body of experience and expertise on the issue, enabling us to best support women and children and share this knowledge with other agencies responding to women experiencing domestic violence.

Women’s Aid runs the National Freephone Helpline (1800 341 900) which operates from 10am to 10pm, every day of the year (except Christmas day), and provides support and information to callers experiencing abuse from intimate partners. We also provide face to face support visits and court accompaniment in the greater Dublin area. Court accompaniment is a specific service providing support to the particular needs of women seeking legal redress in the Courts regarding violence by a current or former husband or partner.

In our Helpline and face to face work we sometimes hear of women experiencing domestic violence who are forced by their abusive partner to work as prostitutes on the streets or who are forced to have sex with other persons by their partner in their homes.

Frequently we also hear of women who experience financial abuse by their partner, or of women who, having left their abuser and not being entitled to social benefits, find themselves in extreme poverty. These women may then become vulnerable to prostitution as the only way to support themselves and their children.

In other countries, links between abusive boyfriends and grooming minors and young women for prostitution have also been made. See for example the following articles: http://www.guardian.co.uk/world/2009/aug/18/loverboy-child-prostitution-netherlands
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http://www.youtube.com/watch?v=TspjLIqH4sE

Intimate partner abuse by a partner/pimp is often a reality for women engaged in prostitution.

We also know that child abuse and domestic violence often co-occur and that many women engaged in prostitution have experienced physical and/or sexual abuse in the family.

Women’s Aid welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’. Womens’ Aid believe that prostitution, whether for minors or adult women usually forms the part of a continuum of gender-based violence and that targeting the buyers, while supporting the people working in prostitution is the best way to address it.

FACTUAL INFORMATION

- 85% of women in prostitution report physical abuse in the family, with 45% reporting familial sexual abuse. (Home Office, Paying the Price, 2004)

- Given their vulnerability, children who have been affected by domestic violence are likely to be over-represented among children abused through prostitution (Home Office, Paying the price, 2004)

TRAFFICKING

- There is no clear line between where the elements of trafficking end and “consent” to become involved in the sex industry begins. Many of the women who are involved in Ireland’s sex industry, which do not meet the definition of a victim of trafficking, had no real choice – poverty and life circumstances, combined with deception and gross exploitation, are evident in many of their stories. (Kelleher et al 2009, Lawless 2005)

- One exception to the legality of purchase of sex is the Criminal Justice (Human Trafficking) Act 2008, whereby it is an offence to purchase of sex from identified trafficked victims. Buyers of sex are only brought to be held accountable when they knowingly purchase sex from a trafficked person. There have not been any prosecutions to date and none are expected due
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to the burden imposed on the State to prove that the buyer is aware of purchasing a person who qualifies as a victim of human trafficking. This legal provision is not an effective deterrent for buyers of sex. (Art 5. Criminal Justice Human Trafficking Act 2008)

- The situation whereby adults in the absence of any degree of control or duress or lack of alternatives, discreetly agree to exchange sex for money, occurs seldom.
- Reports from around the world repeatedly show that buyers are aware of the controlled/coerced status of the women they buy. In the UK 55% of the interviewed over 100 buyers said the majority of women are coerced/trafficked, in the US the number of buyers sharing this view rises to 60% and to 63% in Scotland. Other studies also show that men buying sex are well aware of the vulnerable status of women but this does not affect their decision to buy sex.1

CHILDREN

- 75% of women in prostitution became involved when they were children (Women’s Resource Centre, 2008)
- Experience shows that the tender age or obvious vulnerability of a person alone cannot act as deterrents for the buyers of sex2 and a more comprehensive approach is needed in tackling the demand for paid sex.
- The estimated average age of entry into prostitution is 14 years3. A report published by the Immigrant Council of Ireland exploring the sex trafficking of migrant women revealed that 11 of the 102 studied cases involved girls younger than 18 years4. More recently, the Irish Government annual reports on human trafficking stated that in 2010 out of the 56 victims of sex trafficking 15 were minors, and 8 out of 37 in 2011 respectively5.

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2 “The harsh realities of being raped for a living”, Irish Examiner Wednesday, February 15, 2012
3 US Department of Justice “Child Exploitation and Obscenity” accessed CEOS
4 “Globalisation sex Trafficking and Prostitution and Experiences of migrant Women in Ireland”, Kelleher et al, 2009
5 Annual statistical reports on trafficking in human being by the Anti Human Trafficking Unit at the Dept of Justice and Equality http://www.blueblindfold.gov.ie/website/bbf/bbfweb.nsf/page/whatisbeingdone-datastrategy-en
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- International research from 2003 and 2009 expose the fact that men are aware of the coerced and trafficked status of women, which does not discourage them from buying these same individuals for sex.
- The inevitable conclusion is that men who purchase sex, pay to have sex with minors among other prostituted individuals. It also has to be acknowledged that the buyers of sex also purchase women who are trafficked, coerced and pimped.
- Criminal record, including the risk of disclosure has been identified by the buyers themselves as a reliable deterrent of their actions. Penalties are the most efficient proven approach to deter men who contemplate buying sex.
- Sex buyers act out of their free will, unforced by economic circumstances or other people unlike the women that are for sale.
- We believe that the reduction of demand for paid sex leads to decreased supply of prostituted people, among them those who have been forced, controlled, trafficked, those who are minors or have other vulnerabilities.

SEX INDUSTRY

- Prostitution is described as a temporary power over another person to do what you want sexually (O’Connell Davidson, 2004)
- Once in prostitution, 9 out of 10 surveyed women would like to exit but feel unable to do so (Farley et al, 2003)
- Being in prostitution means having your body touched, grabbed, penetrated again and again, usually on a daily basis, by different men who will dictate what they want to do and want done to them. There are an estimated 1000 women and girls available for sale in the sex trade in Ireland every day. (Kelleher et al 2009)
- Being in prostitution is about the sexual satisfaction of the sex buyer – not the prostituted person. It is not an equal transaction. One person with means buys access to the body of another person who most commonly is in a desperate situation.

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6 “Men Who Buy Sex: Who They Buy and What They Know”, Farley, Bindel, Golding 2009
7 Farley 2011, McLeod 2008
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- Various activities associated with prostitution are outlawed in Ireland, such as curb crawling, soliciting, loitering in public places, brothel keeping and living off immoral earnings. **However, the purchase and the selling of sex are not illegal.** (Criminal Law Sexual Offences Act 1993)
- Sex buyers do not fit the stereotype of lonely, socially isolated men. 60% on average are married or in a relationship. They are likely to have a larger number of sexual partners (not through prostitution) than the rest of the male population. (Escort-Surveys (IRL) 2006; McLeod et al 2008; Farley et al 2011)
- Only one in every fifteen men has purchased sex in Ireland. This means that the vast majority do not. (Kelleher et al 2009)
- It is the sex buyer who fuels the profits of the criminals who organize the sex trade in Ireland and perpetuates the exploitation of vulnerable women and girls.
- There are different degrees, levels and extent of coercion, abuse and violence perpetrated against any one woman or child at any particular time, which is critical to the individual person. But all women who are in the sex industry are violated and sexually exploited. The sex industry is an inherently unsafe and dangerous environment.
- In Sweden, where they have criminalised the buying of sexual acts, there has been a significant reduction in trafficking and prostitution with a halt in the recruitment of new women (Baklinski, 2007).
- Legislation can be used to change attitudes and when you change attitudes you change behaviours. In Sweden there has been legislation to criminalise the sex buyer while decriminalizing those prostituted (as vulnerable parties) since 1999. A whole generation of young people has grown up in the last decade in a society where it is considered unacceptable for the bodies of women and girls to be bought by others for their sexual satisfaction. 70% of Swedes support this law on the basis that prostitution is exploitative and incompatible with equality (Claude, The Swedish Institute 2010).
- The outcomes of the High Level Inquiry, headed up by a Supreme Court Judge concluded that street prostitution in Sweden has halved since the introduction of the ban. In comparable countries, Norway and Denmark, the number of people in street prostitution has increased dramatically in the same period, three times higher than in Sweden. There is no evidence that prostitution has gone underground. Indoor prostitution including massage parlours, sex clubs, and hotels has not increased. There is no indication that criminalisation has increased the risk of violence or worsened the conditions of those people exploited through prostitution. The
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Swedes have seen a change in attitude to the purchase of sexual services; strong support for the ban on purchasing sexual services (70%-80%). Furthermore, the ban has proved to be an effective deterrent to sex purchasers as polls show decrease from 13.6% in 1996 to 7.9% in 2008.

**HEALTH AND SAFETY**

- Prostitution has a devastating impact on both physical and mental well being for those prostituted. It erodes self-esteem, self-confidence, can cause depression and symptoms of post traumatic stress disorder. It can result in infertility, unwanted pregnancies, sexually transmitted infections, fissures and many other physical consequences. (Kelleher et al 2009, Lawless 2005)
- Those in prostitution face beatings, rape, sexual assault and degrading treatment. They are usually individuals who are isolated from potential supports (Kelleher et al 2009, Farley et al 2004, Raymond et al 2002)
- Concern for the health and safety of sex workers and the desire to make sex work a voluntary regulated occupation led many policy makers to argue against the criminalisation of the sex industry. In fact the evidence from other jurisdictions where regulation and legalisation have been in place for over a decade demonstrates that those aspirations were ill founded. In Germany an extensive evaluation in 2007 indicates there is no evidence that women are safer, only a tiny number of women have accessed health insurance, the illegal sector continues to grow and profit and the people who have benefited most are the organisers and owners of the businesses, (Kavemann, 2007).
- In the Netherlands, extensive evaluation of the industry has found that legalisation has not brought any more safety for women but rather a massive legal and illegal trade in migrant girls and women; that combating the exploitation of involuntary prostitution is 'virtually impossible' to ascertain; that pimping is widespread and that the emotional well-being of women is now lower than in 2001 on all measured aspects, and the use of sedatives has increased, (Daalder, 2007).
- A review of prostitution regimes in nine countries concluded that it is not feasible to treat sex work like any other occupation, integrate it into employment law or create the conditions in which women’s health and safety can be protected, (Kelly et al, 2008).
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- Research consistently indicates that there is no safe location for prostitution. Rape, physical violence, forced sex without condoms, abusive and dangerous sexual practices are constant risks whether it is on the streets or in indoor locations, (Farley et al 2003, Raphael & Shapiro, 2002, Sullivan, M. 2005).
- We refute that prostitution is inevitable. It is a common cliché to refer to prostitution as ‘the oldest profession in the world’, however this does not address the physical, mental and emotional suffering that is endured by women in prostitution.
- We wish to emphasise that we do not perceive prostitution as a ‘service’. Sex with another human being cannot be reduced to a service. The act of ‘purchase’ in prostitution is an act of buying of access to, and control over, another person’s body for certain duration of time and for a certain amount of money.

ORGANISED CRIME

- Organised criminality is inextricably linked to and completely pervades the sex trade in Ireland. The sale of people for sex is one of the three most lucrative international criminal enterprises: alongside sale of drugs and arms.
- Prostitution is a high gain, low risk enterprise for those involved, who are not prostituted themselves. There are many third parties who benefit. They can include for example: the career criminal pimps; landlords who knowingly rent premises as brothels; prostitution advertisers; and individuals who groom, coerce and ultimately profit from the prostitution of their partners, family members or vulnerable acquaintances.
- The demand from those who buy sex, which fuels the trade in women and girls who are trafficked for sexual exploitation, sustains an illegal prostitution industry worth a conservatively estimated €180 million a year in this country. (Kelleher et al 2009)
- The simple legal step of criminalizing the purchase of sex would immediately cut demand for the hugely lucrative criminal trade of organised prostitution and trafficking. Reducing the size of the trade in vulnerable women and girls - thereby reducing the numbers exploited in the state.
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- The Swedish State - where the ban on the purchase is in operation for the longest time - clearly demonstrates the benefits associated with this ban. The outcomes of the Swedish High Level Inquiry suggest that there is no indication that criminalisation has increased the risk of violence or worsened the conditions of those people exploited through prostitution. Trafficking is considered to be of a substantially smaller in scale in Sweden than in comparable countries. The National Criminal Police believe the law has acted as a barrier to human traffickers and procurers. In relation to enforcement in Sweden, a spectrum of offences i.e. aggravated procuring; procuring; attempted/aided procuring enables more prosecutions of traffickers/pimps as trafficking offences notoriously difficult to prosecute
- The consultation paper constantly cites a very out of date report on Sweden, 2004 (below). The research was done in 2003 only 3 years after law. The context has changed and so many of the issues raised in relation to enforcement have been dealt with in particular the focus on the indoor sex industry and the claim that it had gone underground. The police are engaged in extensive operations in relation to the indoor market. Surveillance, phone tapping, monitoring of sites, mobiles, advertisements etc. (National Police Board Sweden, 2010)

RECOMMENDATIONS

- Women’s Aid recommends criminalising the purchase of sex whilst at the same time decriminalising those who sell sexual acts and offering support services to people in prostitution is the only viable way to work towards an end to this exploitative industry.
- As Sweden is no longer an attractive market for traffickers and pimps - the law clearly works as a deterrent (Ekberg, 2008).
- Criminalising the purchase of sexual acts makes punters take responsibility for their actions and sends out a clear message that it is not acceptable for women to be treated as commodities to be bought and sold for sexual use.
- A society is judged by how it supports the most vulnerable in the community. Taking steps to prevent the exploitation of vulnerable women and girls, boys and men through prostitution sends a message that Ireland is a country where it is not acceptable for one person of means to buy another purely for their own sexual satisfaction.

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- The individual who has choice, autonomy and control is the sex buyer. They can pay for sex or they can choose not to do so.
- The number one deterrent to buying sex among buyers surveyed was the threat of public exposure or a criminal record. (Farley et al 2011 & McLeod et al 2008)
- A diminished demand for purchase of sex, leading to a diminished trade would support An Garda Síochána in prioritizing their limited resources to effectively target persistent criminality. In countries where prostitution has been legalized the police have found themselves faced with an insurmountable challenge as the sex trade increased massively, including trafficking and related criminality.
- Even more important, is the potential of this policy to establish a new norm in our society, which deems prostitution to be unnecessary and unacceptable social phenomenon. Such approach underscores a social context, within which younger people could be raised with intolerance towards the purchase of another person’s body for sexual gratification.

FURTHER INFORMATION

For further information or clarification on any of the above, please do not hesitate to contact Monica Mazzone at: monica.mazzone@womensaid.ie
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Executive Summary

- Sex Workers Alliance Ireland (SWAI), established in 2006, is an alliance of health and social service providers, academic researchers and health and social care workers who work directly with sex workers. SWAI’s mission statement is to promote the social inclusion, health, safety, civil rights and the right to self-determination of female, male and transgender sex workers in Ireland.

- SWAI strongly opposes current proposals to introduce the ‘Swedish Model’ of criminalising the clients of sex work. The purchase and sale of sex should remain legal for consenting adults. Criminalising those who buy sex has adverse consequences for those who sell sex in that it eliminates their source of income and increases their poverty and marginalisation.

- Criminalisation of purchasers will make sex workers more vulnerable because it will deter the respectable purchasers and may increase the violent ones. With the loss of Garda protection, sex workers will have to turn to pimps and protectors to protect them from violent clients. It would also result in sex workers being driven further underground, which not only increases their vulnerability but also makes it harder for outreach workers to access them, and for them to access adequate health and social care services.

- The alleged link between legalisation and sex trafficking has been contradicted by international evidence. Germany has recorded a decrease in sex trafficking since sex work was decriminalised, while Swedish police report that rather than deter traffickers, the law has simply caused them to change how they operate.

- SWAI recommends that the judiciary redefine the concept of brothel-keeping. Although “brothel” is not defined in Irish law, the courts have followed the English common law definition; this applies to any place where more than one person sells sexual services. In the interest of safety women are better off working together rather than working alone. This denial of access to a safe working environment breaches the right to occupational health and safety, which applies to sex workers no less than to workers in any other sector. SWAI therefore calls for the law to be amended to exempt premises shared by sex workers, with no third-party involvement, from the definition of “brothel”.

- To decrease the risk of the transmission of HIV, SWAI recommends that the Department of Justice takes cognisance of the UNAIDS Report (2010) which warns countries against the persecution of sex workers and the demonisation of their clients, and urges governments not to conflate trafficking with voluntary sex work.

- SWAI recommends that scarce Garda resources be targeted at serious crime, such as violent punters who attack men and women sex workers, and that the Department of Justice and Equality should consider redefining attacks on sex workers as ‘hate crimes’ and implement initiatives such as those pioneered by the Liverpool police force.

- Drug users who engage in prostitution to fund a drug habit require easier access to harm reduction services such as free condoms, methadone maintenance, needle exchange programmes, rehabilitation and detoxification. SWAI urges dialogue with street sex workers as part of the process of developing a new approach which will maximise their own safety as well as that of the broader community, while promoting meaningful and accessible alternatives to street solicitation.
1 Introduction

Sex Workers Alliance Ireland (SWAI), established in 2006, is an alliance of health and social service providers, academic researchers and health and social care workers who work directly with sex workers. SWAI’s objective as detailed in its mission statement is to promote the social inclusion, health, safety, civil rights and the right to self-determination of female, male and transgender sex workers in Ireland. SWAI advocates for the rights and interests of consenting adults who choose to be sex workers freely. SWAI is totally opposed to any form of coercion or the trafficking of people into the sex work industry against their wills, and is opposed to any forms of abuse including child sexual abuse.

SWAI does not have public or private funding or sponsors of any kind. Its existence came about via the work of members in research or care work with a population of sex workers who in our view need assistance and advocacy. As such, it presents its views and recommendations simply as a group of professionals who have considerable first-hand experience of sex workers in Ireland and as a consequence believe it understands their needs and difficulties and feels that it has a responsibility to speak out on their behalf because of this.

SWAI recognises that there are many harmful and risky aspects to providing sexual services but again it is convinced by solid research findings and reports from other constituencies and through first hand contact with sex workers that these types of harm can be reduced or eliminated through appropriate social policies. It is also convinced that it is in society’s interest to maintain open dialogue with sex workers in order to ensure safer sex practices and to reduce or eliminate the risk of the spread of STIs and HIV. Criminalisation would, we believe, have the opposite effect and would in reality further endanger the health of the greater society.

SWAI advocates for a group that is too stigmatised, socially excluded and silenced to speak for themselves and the focus of our efforts is harm reduction for sex workers and for society as a whole. We welcome the government’s decision to have a public consultation on the issue of sex work in Ireland. As the Discussion Document on Future Direction of Prostitution Legalisation points out, currently there are ideological differences between those who wish to abolish prostitution and introduce the ‘Swedish Model’, which would criminalise the purchasers of sexual services and those who take a harm reduction approach.

While welcoming the intent to decriminalise women’s’ involvement in the sex industry SWAI finds it extraordinary that there are groups currently lobbying to criminalise men instead in the mistaken belief that this would somehow stop or reduce demand and resolve or remove the various problems associated with this behaviour. The research shows that it is not effective and indeed may increase problems associated with sex work.

SWAI takes a harm reduction approach and argues that the harms and risks associated with sex work should be targeted because we believe that prostitution can never be fully eliminated and attempts to eliminate the demand, however well intentioned, would simply ensure it went underground, increasing the risks of harm both to sex
workers and to their clients. Prohibition universally does not work – take alcohol or cigarettes - for example. Regulation is the more rational and potentially humane option.

Those who wish to eliminate prostitution and those who take a harm reduction perspective both share common ground in that they both recommend that those who sell sexual services should have equal access to health and social services and need protection from violence. In that regard, we support the efforts of organisations like Ruhama who have a long history in helping the most exploited and coerced to exit prostitution. However, we also recognise that not all sex workers are coerced into prostitution, and many enter voluntarily; they may make choices within a limited range of options and we respect their rights as adults to make the choices they make. Concomitantly we do not seek to demonise or judge those who buy sexual services, because they no doubt have their own valid reasons for doing so, some of which can be very easily understood, for example where a spouse is no longer willing or able to engage sexually. It can be an issue also for disabled people and this has been addressed in other jurisdictions. This is not a simple issue with a quick fix solution that will deal with all aspects fairly or reasonably and indeed most jurisdictions see the wisdom of not involving the law in this area at all, except where there is crime or coercion involved.

We are concerned about the current American styled heavily resourced and heavy-handed crusade (Turn Off the Red Light) in Ireland ostensibly aimed at abolishing prostitution. We believe it is designed to create a moral panic1 to pressure politicians to make a quick change to the law and sadly is currently providing misinformation to the Irish public, including the suggestion that it has the support of over a million people who happen to be members of organisations who are associated with them in their current campaign.

The numbers of people who choose to be involved in the trading of sexual services will surprise many – it is possibly of the order of one in every 16 adults in the relevant population. SWAI believes that the introduction of the ‘Swedish Model’ may have unintended harmful consequences for these very many people and for Irish society as a whole. We will examine these issues further in this submission. We will also look at the advice provided by the leading world agencies concerned with the issues involved.

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1 Weitzer (2007) outlines the development of a crusade to abolish prostitution during the Bush era in the United States. A coalition of groups (abolitionists, evangelicals, and radical feminists) created a moral panic by firstly constructing prostitution and human trafficking as not only a serious social problem but as a moral evil which threatened the very fabric of society. Purchasers of sexual services were demonised and made into folk devils. The numbers of those being trafficked into the sex industry were seriously exaggerated. This does not mean that trafficking into the sex industry is fictional but that the number of those who are trafficked is seriously overestimated. By focusing on individual horror stories and the testimonies of a few rescued people a social problem was constructed, trafficking and prostitution were conflated and constructed as moral evils; powerful lobby’s succeeded in having these discourses institutionalized into official discourse, legislation, and enforcement (Weitzer, 2007, “The Social Construction of Sex Trafficking: Ideology and Institutionalization of a Moral Crusade”. Politics & Society 35(3):447–475)
1.1 Human Rights and sex working

SWAI takes a human rights approach and believes that sex workers have a right to self determination. The term ‘sex worker’ was coined in 1980 by the activist Carol Leigh. She and other current and former sex workers argue that sex work is a form of labour and that sex workers should have their rights recognised. In 2005, 120 sex workers and 80 allies from 30 countries participated in the European Conference on Sex Work, Human Rights, Law and Migration in Brussels. From this conference, two documents were published: Sex Workers in Europe Manifesto and Declaration of the Rights of Sex Workers in Europe. During the writing of the United Nations Protocol on Trafficking, two opposing positions were presented. Lobbyists from the Coalition Against Trafficking in Women (CATW) argued that all sex work is a form of trafficking, whereas the Human Rights Caucus representing the International Human Rights Law Group and the Asian Women’s Human Rights Council advocates for the analysis of sex work as labour. UNAIDS uses both a rights based perspective and also has the goal to reduce the transmission of HIV in sex work. This human rights approach was verified in a recent UNAIDS report (UNAIDS, 2012). The introduction of the ‘Swedish Model’ seriously compromises the human rights of sex workers to sell sexual services.

2 The prevalence of Sex Work in Ireland

Due to the clandestine and hidden nature of prostitution and the fact that it takes place in the ‘informal sector’ or black economy there are no truly reliable figures available for the extent or prevalence of prostitution in Ireland. Sex workers comprise women, men and transgendered persons although women are in the majority. Currently sex workers in Ireland work on the streets, from their mobile phones, advertise on the Internet, work in brothels or massage parlours and as escorts for agencies or independently. Although there is no published research on the subject, it is likely that in Ireland, as in other countries, sexual services are also sold in bars, hotels, clubs and

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other indoor venues. Studies have been undertaken on the most visible sex workers – those who work on the street – but there is no published research on those who work in brothels. Research has also been conducted in England, and this research argues that the sex industry like other industries is regulating itself. Sanders (2005) argues that some forms of sex work are entering a professionalisation phase: following common industrial trends they are developing regulation and standardisation mechanisms, and collectively organising for human rights. Some align themselves with other marginalised groups such as homosexuals. Others, in for instance the United Kingdom, Germany, Holland, Australia, New Zealand, Canada, and the United States, are joining the trade union movement (Lopez-Embury and Sanders, 2009).

Although we may not have reliable figures for the numbers of sex workers in Ireland, there are reliable prevalence figures for men who seek the services of sex workers; the 2006 ISSHR study, a representative national survey in Ireland found that 6 per cent of Irish men between the ages of 18 and 64 have ‘ever’ paid for sex with a woman. The rate of 6 per cent is the same as that reported in the National Survey of Sexual Attitudes and Lifestyles in the UK but lower than those found in Australia (16 per cent). A similar percentage of gay men have also purchased sex, findings from the All-Ireland Gay Men’s Sex Surveys, 2003 and 2004 (n=781) found that 6.5 per cent said that they had paid money for sex with a man in the last year, with slightly more men (7.6 per cent) in Dublin having done so.

Accepting that this is a reasonable basis for assuming a level of uptake of such services, a change in the law in line with the ‘Swedish Model’, would if implemented, result in criminalising one in 16 Irish men over time and could potentially deliver devastating consequences for them and their families.

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3 Existing legislation

Ireland already has a law *(Criminal Law (Sexual Offences) Act, 1993)* that criminalises the buyers of sexual services (if they are discovered to be soliciting or kerb crawling) as reflected in Operation Freewheel\(^\text{15}\) in Limerick in which 27 men appeared before Limerick District Court charged with soliciting prostitution services from undercover female Gardaí. Of those, 21 pleaded guilty and were fined €470 while six had their cases adjourned until next year. The newspaper report stated that one of Limerick’s most senior Gardaí refuted claims that these men were the victims of entrapment.

The *Criminal Law (Sexual Offences) Act, 1993*, updated previous legislation; eight sections deal with prostitution. The criminal category of the ‘common prostitute’ was removed, but new crimes were introduced such as kerb crawling, managing prostitution and living off the earnings of prostitution\(^\text{16}\). Garda powers and penalties were increased; up to and including five years’ imprisonment for violations. The then Minister for Justice, Máire Geoghegan-Quinn, who introduced the bill, explained its purpose to the Seanad:

*I have explained in both Houses that prostitution is not illegal. What transpires in private between consenting adults is no business of the criminal law. The law must be concerned with the nuisance and annoyance caused by the public face of prostitution which is, in effect, soliciting, importuning or loitering for the purposes of prostitution.*

By extending criminality to a range of activities of clients, pimps and profiteers, the 1993 Act moved Irish state policy away from prohibitionism to abolitionism\(^\text{17}\) which is what the ‘Swedish Model’ wishes to accomplish.

The ‘Swedish Model’ would also increase the risks of harm for sex workers and for society ultimately. SWAI believes this is not a reasonable or effective approach to dealing with the issues involved in this area of human behaviour. Before discussing this model more fully, brief indicators of other approaches developed in Australia is appropriate

### 3.1 Other approaches

There are more thoughtful and humane approaches such as those approaches taken in Queensland Australia.

*Over the past twenty years or so, two major themes relevant to sex work have emerged in Australian public policy: rights-based public health and corporate*
governance. Rights-based public health has the practical aim of ensuring equity for all citizens in access to health care and to the conditions that promote health, including health in the workplace. The driving force of corporate governance is to ensure that what we do in public life is open and transparent, regardless of the type of industry or the social context in which it operates. The Queensland Prostitution Act 1999 was introduced to regulate the sex industry with both themes in mind.\textsuperscript{18}

Or the New South Wales approach:

For health and safety reasons and in order to meet best practice in a decriminalised environment the word ‘brothel’ as defined in the legislation, should not apply when up to four private sex workers work cooperatively from private premises. All of the evidence indicates that private sex workers have no effect on public amenity. Exempting this group from planning laws that pertain to brothels will limit the potential for local government corruption. The New Zealand experience provides a successful precedent for the four worker model.\textsuperscript{19}

Given that the most publicised suggestion as to how to move forward is with reference to a law introduced in Sweden, clearly it is important to take a closer look at the ‘Swedish Model’, so called, and explore to what extent it has been successful in abolishing prostitution in Sweden or in deterring traffickers.

4 The ‘Swedish Model’

In 1999 Sweden was the first country in the world to introduce unilateral regulation on the purchase of sexual services: the purchaser was criminalised (Swedish Institute, 2010)\textsuperscript{20} and the sale of sex remained decriminalised. Criminalising the purchase of sexual services was part of the Government Bill on Violence against Women, which proposed a large number of measures to combat violence against women, prostitution and sexual harassment in working life. Despite its questionable effectiveness, the Swedish government encourages other countries to introduce similar laws based on the notion that by reducing the demand for prostitution it will also reduce supply of people selling sex. In 2009 Norway and Iceland introduced similar laws. In 2010 the Swedish government released a report on the effect of the law. The Skarhed Report\textsuperscript{21} claimed that

\begin{itemize}
  \item \textsuperscript{18} Prostitution Licensing Authority (2004), \textit{Selling Sex in Queensland 2003 a study of prostitution in Queensland}, Brisbane QLD, Prostitution Licensing Authority. \url{http://www.pla.qld.gov.au/Resources/PLA/reportsPublications/sellingSex/documents/sellingSexInQLD.pdf}
  \item \textsuperscript{19} The Kirby Institute, Faculty of Medicine, University of New South Wales, “The Sex Industry in New South Wales: A Report to the NSW Ministry of Health”, \url{http://www.med.unsw.edu.au/NCHECRWeb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf}
  \item \textsuperscript{21} \url{http://nprp.se/2010/07/02/evaluating-the-swedish-ban-on-the-purchase-of-sexual-services-the-anna-skarhed-report/}
\end{itemize}
the law had reduced street prostitution and by extension prostitution all over Sweden. However, the report has been criticised by experts for being one-sided and selective in reporting its findings. Some experts believe that it has focused too much on street prostitution and not enough on indoor prostitution, which has increased in Sweden and other countries over the 10 years. In fact the Skarhed Report states that:

*When it comes to indoor prostitution in which contact is made at restaurants, hotels, sex clubs or massage parlours, the available information on the extent to which this occurs is limited. We have not been able to find any in-depth studies of these forms of prostitution in the past decade.*

This statement backs the Swedish National Board of Health and Welfare Report (2007) that claims:

*It is also difficult to discern any clear trend of development: has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question. At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law against purchasing sexual services. But as said, that refers to street prostitution, which is the most obvious manifestation. With regard to increases and decreases in other areas of prostitution – the “hidden prostitution” – we are even less able to make any statements.*

*Table 1: Number of convictions for Sex Purchase in Sweden*

<table>
<thead>
<tr>
<th>Year</th>
<th>Total convictions</th>
<th>Of those, fine paid, no trial</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>10</td>
<td>5</td>
</tr>
<tr>
<td>2000</td>
<td>29</td>
<td>22</td>
</tr>
<tr>
<td>2001</td>
<td>38</td>
<td>18</td>
</tr>
<tr>
<td>2002</td>
<td>37</td>
<td>21</td>
</tr>
<tr>
<td>2003</td>
<td>72</td>
<td>49</td>
</tr>
<tr>
<td>2004</td>
<td>48</td>
<td>26</td>
</tr>
<tr>
<td>2005</td>
<td>94</td>
<td>46</td>
</tr>
<tr>
<td>2006</td>
<td>108</td>
<td>85</td>
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<tr>
<td>2007</td>
<td>105</td>
<td>54</td>
</tr>
<tr>
<td>2008</td>
<td>83</td>
<td>49</td>
</tr>
<tr>
<td>2009</td>
<td>133</td>
<td>93</td>
</tr>
<tr>
<td>Total</td>
<td>757</td>
<td>468</td>
</tr>
</tbody>
</table>

Source: Swedish National Council for Crime Prevention

Paradoxically, media reports suggest that Swedish men and women may also be part of the sex tourism industry. A recent media reported that some Swedish women travel

to Bali to purchase sex from “beach boys”. Swedish men are also involved in sex tourism to Thailand. One international Thai sex tourism site has 96,000 Swedish members (out of a population of about 9.5 million Swedes).

There are claims that the sex-purchasing ban has decreased prostitution and trafficking in Sweden, but the evidence given in support of this claim is questionable. Official reports from Sweden have shown increases in trafficking, sex work and purchasing of sex over the last 10 years while at the same time government departments have admitted to ignorance regarding the extent of sex work. In Norway there is even less evidence. The law has not had the desired effect on removing prostitution, which has increased since 2009. Prostitution still exists there as it does in Sweden, Norway and Iceland. There is no evidence that that the introduction of the ‘Swedish Model’ would have any different effect on prostitution in Ireland.

Curiously, despite Sweden’s harsh stance on criminalising purchasers, the government has recently announced that there will be new guidelines regarding the state’s health insurance for sex workers. Indeed, where sex workers are paying tax they will have an entitlement to 80% of their income when on sick leave.

Norway

In 2009, Norway adopted similar laws to that of Sweden due largely to an increase in African street prostitution. Like Sweden the immediate result was an apparent decrease in street prostitution but more recent reports show that street prostitution has increased again. A new report from the Pro Sentret (Oslo based prostitution resource centre) has found a 70% increase in the number of prostitutes in the city compared to 2009. A separate report also from the Pro Sentret points to an increase in violence towards sex workers.

The Pro Sentret report indicates that the law has in fact made prostitutes much more susceptible to violence at the hands of their clients as the sex trade moves further underground. What’s more, prostitutes have become less inclined to seek help since the law came into force, with many now perceiving that they too are viewed as criminals, the report says. Many of the women also said the new law had scared off many of their more reliable customers, while troublesome and violent clients were relatively undeterred.

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25 http://www.malmo.se/download/18_56d99e38133491d8225800027461/Mobilitet+Rapport.pdf
26 http://www.thelocal.se/41846/20120705/
5 The impact of criminalisation on services for sex workers

Prostitution policies need to guard against negative implications for the public health and human rights of those working in prostitution. Service provision for sex workers in Ireland occurs in the context of legal prohibitions that are purposefully discriminatory towards sex workers and have an overall punitive intent. Within such a context, services are increasingly pressed and funded to provide direction on exiting sex work rather than harm reduction.

Empowerment is argued to be key to reduction and prevention of health risk by allowing sex workers more control in their contractual position with clients, pimps and brothels. When sex workers are working within a criminalised environment, their economic and social position is insecure and "they cannot afford the luxury to pay special attention to some of the risks they are facing, isolate these specific risks and pay extra attention to them." Proponents of the ‘Swedish Model’ of prostitution policy, seek to introduce legislation, which addresses prostitution through a ‘violence against women’ framework. Rooted in an abolitionist agenda, by criminalising demand, this legislation is focused on ultimately eradicating prostitution from society. What has been found is that prostitution activities have now largely moved underground in Sweden; therefore becoming less visible rather than less common. Such criminalisation legislation would certainly impact the visibility of prostitution in Irish society, but would not, despite its best intentions, abolish prostitution or the sex industry. The consequences of this would mean those services seeking to minimise the harms associated with sex work would be impeded in their efforts to reach their client group, and those who are most marginalised and most vulnerable to risk in prostitution are forced to undertake commercial sexual encounters in more covert environments, invisible to services and further exposing themselves to harm.

As a society we need to be cognisant of the social construction of risk associated with criminalisation. When abolition of prostitution becomes a policy aim, support services and community-level interventions are undoubtedly impacted through funding measures which prioritise exiting programmes for those involved in prostitution to the neglect of services which seek to support the health, safety and human rights of sex workers who wish to remain in the sex industry.

Further, as the ‘Swedish Model is rooted in a “violence against women” perspective, such legislation frames sex work as only a heterosexual encounter between a female sex worker and a male client, thus ignoring the realities of male sex workers in

33 Wolffers, 2001: 2.
34 Svanström, 2006; Europpap, 2000: 16.
Ireland, as well as transgender persons who are involved in commercial sexual activity.

Moral arguments against prostitution cannot eclipse a person’s right to health and social services. The rights or wrongs of prostitution are less important than the operation of legislation that should be able to intervene for those at risk and acknowledge those who do not conform to a victim identity. Fundamentally it should be recognised that driving sex workers and their clients underground exposes them to greater risks than those risks which abolitionists wish to save them from. Fundamentally, a person’s human rights should be at the forefront of any debate on prostitution.

SWAI recommends that a harm reduction approach to services for sex workers be followed, which can only effectively operate when the abolition of prostitution is not the primary concern of legislation.

The harm reduction principle is not concerned with reducing prostitution but with reducing both its intrinsic risks, such as STIs, and its situational risks, which arise from the ways in which it exists as a marginal, stigmatised and criminalised venture.

5.1 Alleged trafficking into Ireland’s sex industry

People who support an abolitionist approach to prostitution often link and even conflate sex work and trafficking. Campaigners claim that 90% of sex workers are trafficked into Ireland. SWAI has not found this to be the case and believes that these figures are unreliable as they are estimated from the number of non-nationals advertising on Internet “escort” sites. It is presumed that because they are of a foreign nationality and working here as sex workers that they have been trafficked. This assumption would not be tolerated in any other occupation such as: builders’ labourers (very common during the Celtic Tiger Era), au-pairs, domestic cleaners, farm labourers or other jobs. People would not automatically jump to the conclusion that the person must be trafficked or forced into their job just because they are from another country. They may simply be migrant workers. As the Discussion Document on Future Direction of Prostitution Legalisation (2012, p. 8) points out in a significant proportion of cases of alleged trafficking … ‘no evidence of human trafficking has been uncovered’ in Ireland under the Criminal Law (Human Trafficking) Act 2008.

A new report from Britain has found that less than one-third of trafficking cases involved the sex industry. The conflation of prostitution with trafficking risks ignoring the fact that trafficking occurs in other industries also.

37 [http://www.guardian.co.uk/law/2012/aug/26/people-smugglers-organ-donors](http://www.guardian.co.uk/law/2012/aug/26/people-smugglers-organ-donors)
Conflating migrant workers with trafficked people is also misleading. Research carried out by May (2011) with 100 migrant sex workers in England found that the majority of migrant sex workers chose sex work over other exploitative working conditions that they had experienced in previous non-sexual jobs. Research published by the Immigrant Council of Ireland (2009), in which 12 trafficked sex workers were interviewed, suggested that some of the women were migrant workers. They appeared to find the income they earned in Ireland enough to share with their families of origin. A Brazilian sex worker (working in Ireland) reported:

*I went home to Brazil and opened a snack bar, working all the time, but could not support my family. Now I know that if I work (in Ireland) until December I can pay off the mortgage and, after 12 years I can go home at last and never do this again.*  
(Immigrant Council of Ireland, 2009, p. 103)

Another sex worker reported that she was using the money to fund her children’s education and to support her mother and sister:

*If I did not have children, I would not have done this. I do not think about myself. My son is in college and my daughter is at school... My sister divorced and her husband gave her nothing. She has two small children and no money so I stayed in the work and built a house for my mother and sister. My sister takes care of all the children and I support them all.*

Migrant workers were also arrested in Killarney last year, and claimed that they were unaware that prostitution was illegal in Ireland. Two young women from Slovakia were charged with brothel keeping in Killarney. The women described themselves as self-employed and said that they had also operated from other venues in Ireland. At the trial the judge said there was no evidence of trafficking and imposed fines on them. The next section will examine the ineffectiveness of brothel raids in detecting trafficked women.

### 5.2 The Ineffectiveness of Brothel Raids

In recent years there have been a number of organised Garda operations to raid brothels for example Operation Freewheel (2010) was a multi-phased and graduated operation to tackle prostitution in Limerick. Gardaí issued thirty-one warrants to search premises suspected of being brothels, and one hundred and twenty six people were arrested as a result of their operations. Of those, eighty-seven people were arrested and brought before court on soliciting the services of prostitutes (Irish Examiner, 2011). A joint strategy entitled Operation Quest by the PSNI and An Garda Síochána raided 140 brothels across Ireland as part of a cross-Border operation.

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38 May, N (2011) In Whose Name: Migration and Trafficking in the UK Sex Industry delivering social interventions between myths and reality. [http://www.londonmet.ac.uk/fms/MRSite/Research/iset/Nick%20Mai/In%20Whose%20Name_Find ings%20Report.pdf](http://www.londonmet.ac.uk/fms/MRSite/Research/iset/Nick%20Mai/In%20Whose%20Name_Find ings%20Report.pdf)

39 [http://www.irishexaminer.com/ireland/2-women-fined-for-keeping-brothel-157159.html](http://www.irishexaminer.com/ireland/2-women-fined-for-keeping-brothel-157159.html)

40 [www.irishexaminer.com/ireland/kfqlqleykfey/rss2/](www.irishexaminer.com/ireland/kfqlqleykfey/rss2/)

41 [www.irishexaminer.com/ireland/kfqlqleykfey/rss2/](www.irishexaminer.com/ireland/kfqlqleykfey/rss2/)
The police reported that this was not a case of trafficked workers (Irish Times 2012b). Three young Polish women (in their twenties) were arrested for running brothels.

International evidence shows that indiscriminate raids of brothels are ineffective and involve a high cost to sex workers with very little return in terms of either arrests of traffickers or rescues of those genuinely in need. Andrew Boff (British MP, London Assembly) responded to the Met police crackdown on police raids of brothels in Britain, by publishing a report entitled ‘Silence on Violence’ in which he argues that raids are ineffective; and criticises the police performance and estimates that they have a success rate of less than 1% in finding trafficking victims during brothel raids.

5.3 Stigma and Sex Work

Further criminalisation increases the stigma which is attached to prostitution. Stigma is a socially constructed phenomenon whereby the “normal people” in society exercise varieties of discrimination through which they unwittingly reduce the quality of life and life chances of the stigmatised. Historically, certain groups in Irish society were stigmatised such as prostitutes, gays, Travellers, those with drug addictions, those who have been imprisoned, those living with HIV or Hepatitis C acquired through an infected needle. Stigma is a deeply discrediting trait that causes those who are stigmatised to have a sullied identity and a lesser place in society leading not only to social exclusion but also to the internalisation of shame and self hate. These emotions stem from the person’s own perception of one of her/his own traits as being a defiling thing to possess. The stigma attached to prostitution may arise from religious discourses that denounce prostitution as immoral and sinful.

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43 http://www.irishtimes.com/newspaper/frontpage/2012/0530/1224316915754.html
44 For example, see: ‘The Use of Raids to Fight Trafficking in Persons’ http://www.sexworkersproject.org/publications/archives/reports/.
45 http://www.guardian.co.uk/uk/2012/mar/19/met-police-sex-trafficking-investigations-criticised
Such stigma exists all over the world but it is possible to change attitudes and beliefs i.e. the situation of gay people in Ireland has changed dramatically in the past twenty years. For example, as the government’s document points out prostitution is legal in a number of countries in the European Union. The Eurobarometer Survey (that surveys attitudes across Europe) has found that attitudes to prostitution are changing across Europe. Criminalising commercial sexual transactions between sellers and buyers adds substantially to the stigma experienced by both groups, further criminalisation will further add to the stigma, shame and humiliation. It would also run counter to the best policy advice provided by the main international bodies that deal with these issues on a global scale.

5.4 HIV and Sex Work

The relationship between sex working and the transmission of HIV has been well documented and is a cause of concern to international organisations such as the World Health Organization and the United Nations. In July 2012 a report was published entitled Global Commission on HIV and the Law: Risks, Rights and Health by the Global Commission which is made up of 15 former heads of States, legal scholars and HIV activists. It recommends that governments all over the world abolish ‘punitive’ laws against prostitution or consensual sex work. It also distinguishes clearly between trafficking and prostitution and cites a recommendation of the International Labour Organisation that ‘sex work’ should be recognised as an occupation so that it can be regulated to protect workers and customers. In particular the commission recommends: the decriminalisation of ‘private and consensual adult sexual behaviours, including same-sex sexual acts and voluntary sex work’.

To address the global epidemic the UNAIDS Advisory Group was established in 2009 to provide guidance and advice on issues to do with the transmission of HIV during commercial sexual transactions. At the same time UNAIDS highlights the

54 http://ec.europa.eu/public_opinion/index_en.htm
importance of respecting the human rights of female, male, and transgender sex workers and the importance of universal access to HIV prevention, treatment, care and support.

According to the UNAIDS report (2010) there are three high-risk behaviours associated with the spread of HIV. These are injecting drug use, practising unprotected paid sex, and men having sex with men. The UNAIDS Advisory Group Report \(^{61}\) highlighted the fact that sex workers can encounter widespread and interconnected human rights violations that hinders not only their effective participation in HIV programmes but also their right to access health and welfare services. It stated that societal stigma and discrimination against sex workers results in repressive laws, policies and practices, and the economic disempowerment of sex workers. The Report warns countries against the persecution of sex workers and the demonisation of their clients, and urges governments not to conflate trafficking with voluntary sex work.

Recent research conducted by the National Advisory Committee on Drugs \(^{62}\) reveals that drug using Irish sex workers embody the risk factors outlined by the UNAIDS in that they are sex working in a criminalised environment, are injecting drug users, they sometimes practise unprotected sex with clients, and are often victims of violence; another risk group are male sex workers who have sex with male clients. This research with 35 Irish drug using male and female sex workers found high levels of diagnosed Hepatitis C Virus (HCV) (78 per cent) and Human Immunodeficiency Virus (HIV) (21 per cent) but also the majority had accessed health services (64 per cent). The HIV \(^{63}\) virus was transmitted usually as a result of accident, ignorance or abuse of power in sex worker/customer interaction. Although condom use was high among the sex workers, some interviewees said that they contracted HIV when raped by a man who was HIV positive who would not use a condom. The offer of more money for unprotected sex was an enticement for some and put them at risk. Male injecting drug users who have sex with men constitute a doubly at risk group because they may not access health services due to stigma and may not practise safe sex. Despite knowledge of the risks of contracting HIV and hepatitis through contaminated needles, some sex workers as a result of the chaotic environment in which they were injecting, accidentally used another’s needles. Others had started injecting drug use at an early age and were ignorant of the harmful consequences; this ignorance seriously compromised their capacity to reduce risk \(^{64}\).

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Health promotion messages need to target purchasers of sex about the importance of the use of condoms in commercial sexual transaction. For such educational initiatives to work society must have genuine access to those involved and criminalising such activity would obviously militate against that. Consistent harm reduction initiatives are needed to reduce the risk for HIV infection among drug using sex workers and the potential risk to their clients.

5.4.1 Reducing violence in commercial sexual transactions

It has already been stated that some sex workers had contracted HIV through being raped by violent clients. The prevention of rape among street based sex workers could be targeted by enhanced policing practices such as those in operation in other jurisdictions, for example, in Liverpool, police trialled interventions like treating crimes against sex workers as hate crimes. They introduced a specialist Independent Sexual Violence Advisor to support sex workers who were victims of crime (www.uknswp.org.uk). The latest Home Office Review of Effective Practice and the new ACPO (Association of Chief Police Officers) Strategy & Operational Guidance for Policing Prostitution and Sexual Exploitation (Association of Chief Police Officers, 2011) endorse a harm reduction approach to prostitution by introducing schemes such as the ‘Ugly Mugs’ scheme to improve safety by encouraging sex workers to report violence incidents, and using the records to identify dangerous individuals and disseminate information to other areas.

5.4.2 National Aids Strategy Committee

In 2008 the National AIDS Strategy Committee (NASC) devised a four-year HIV and AIDS education plan (National Aids Strategy Committee, 2008), which aims to reduce new infections through education and prevention measures. In its mid-term review (2011), NASC suggests that there has been progress in the implementation of actions targeting sex workers such as enhanced condom distribution mechanisms, screening and testing interventions for HIV and STIs. It suggests that there is a need for research into appropriate methodologies for HIV and AIDS education and prevention for indoor sex workers. It also notes that a promised review of current legislation governing sex work has not taken place. It notes that in 2009, the Sex Workers Alliance of Ireland (SWAI) held a one-day awareness raising seminar on sex work in Ireland. In terms of actions it suggests the following:

**Education and raising awareness**

1. Education and awareness-raising measures targeting sex workers should be integrated into sexual health campaigns. This must be informed by a review of


best practice to include approaches to target new populations, illegal immigrants, indoor workers and those buying sex.

2. Organisations and projects working with sex workers work with other services such as hospitals, An Garda Síochána, prisons, drug treatment centres etc. to provide outreach services to sex workers (page 37)

**Sex workers – Specific interventions**

1. Negotiation skills training for sex workers, using a peer-learning approach, should be piloted and evaluated with a view to developing and implementing a programme of training.
2. Enhanced interagency approaches should be encouraged to maintain current outreach programmes working with sex workers.
3. A mechanism for condom distribution should be provided by all services working with sex workers.

**Increasing screening and testing**

1. Specific initiatives should be implemented in partnership between services working with sex workers and STI services to make screening and testing for HIV and STIs available.

**Research and capacity-building**

1. Mechanisms should be put in place to build the capacity of sex workers to participate in relevant fora to represent the needs of this group and to inform relevant policy and practice.
2. Research should be commissioned into the appropriate methodologies for HIV and AIDS education and prevention for indoor sex working and working with new populations in order to inform the development of innovative prevention approaches.
3. Linkages to relevant policy frameworks
4. A review of the current legislation governing prostitution should be undertaken to ensure that access to health and social services is not impeded.

### 5.5 Male Sex Workers

Prostitution is often described solely in terms of women providing sexual services to men, ignoring the reality that men also sell sex, predominantly to other men. Male prostitution is significantly less visible than female sex work and consequently often not acknowledged.

As stated earlier, surveys on gay men (All-Ireland Gay Men’s Sex Surveys\(^67\), 2003 and 2004) found that 6.5 per cent said that they had paid money for sex with a man in

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the last year, with slightly more men (7.6 per cent) in Dublin having done so. Being paid money for sex was reported by 4.3 per cent of respondents from Dublin. Like their female counterparts, male sex workers operate in a range of environments, as escorts, in brothels and as street workers. In Dublin, five\textsuperscript{68} small pieces of research\textsuperscript{69} have been carried out on male street prostitution\textsuperscript{70} \textsuperscript{71}. Men enter sex work for a variety of reasons. Some, like street working women, entered prostitution through a variety of routes, including homelessness and being on the streets, through friends who were doing it, and for the money, others, just like female sex workers, work as independent escorts. Service providers were also surveyed and the recommendations highlighted the needs of male sex workers (MSW) and the need for training and special services for male sex workers. Men who engage in sex work are further stigmatised and sometimes ostracised by the gay community. Furthermore, men who have sex with men who are also injecting drug users constitute a doubly at risk group for contracting HIV.

\section*{6 Conclusions}

The discussion document refers to four approaches to legislative policy, described as “total criminalisation”, “partial criminalisation”, “decriminalisation” and “legalisation/regulation”. In fact, there are many other ways that legislative policies can be categorised.\textsuperscript{72} There are few “pure” examples of any of these approaches; most jurisdictions hybridise them to some degree. SWAI’s primary concern is how any legislation would affect the rights of people who sell sex. We note the growing body of research evidence that the New Zealand and New South Wales (Australia) frameworks provide the best protection for sex workers’ health and human rights.\textsuperscript{73} For example in New South Wales:

\begin{quotation}
\textit{The NSW Government’s legislative reforms of 1979 and 1995 should be endorsed. These reforms that decriminalised adult sex work have improved human rights;}
\end{quotation}


\textsuperscript{72} See Cheryl Overs, “27 different frameworks of sex work law and still counting”, \url{http://www.plri.org/resource/27-different-frameworks-sex-work-law-and-still-counting}

\textsuperscript{73} See, for example,


- The Kirby Institute, Faculty of Medicine, University of New South Wales, “The Sex Industry in New South Wales: A Report to the NSW Ministry of Health”, \url{http://www.med.unsw.edu.au/NCHECRweb.nsf/resources/SHPReport/$file/NSWSexIndustryReportV4.pdf}.
removed police corruption; netted savings for the criminal justice system; and enhanced the surveillance, health promotion, and safety of the NSW sex industry. International authorities regard the NSW regulatory framework as best practice. Contrary to early concerns the NSW sex industry has not increased in size or visibility, and sex work remains stigmatized. ... Decriminalisation of the adult sex industry means that prime responsibility for the industry has moved from the police to local government.

7 Recommendations

7.1 No further criminalisation of sex workers or their clients

The purchase and sale of sex should remain legal for consenting adults, as is the case currently. Ireland already has robust legislation against child sexual abuse and trafficking etc. Further criminalising commercial sexual transactions between sellers and buyers add substantially to the stigma, shame and humiliation experienced by both buyers and sellers. SWAI strongly opposes proposals to criminalise clients, for the following reasons:

- The introduction of the ‘Swedish Model’ of legislation, which criminalises purchasers, has unintended consequences and negative repercussions of driving commercial sexual activity further underground, making it more dangerous for the sellers and the buyers. It will make it more difficult and dangerous for sex workers to access health services, and will make reporting of crime more difficult.
- Responsible clients who purchase sexual services in brothels will be less likely to report trafficked women that they may encounter, if criminalised by any change in the current law, thus eliminating a possible useful source of information for the Gardaí. This situation has been reported in Sweden (National Board of Health and Welfare (2007)).
- SWAI recommends that a harm reduction approach to services for sex workers be followed, which can only effectively operate when the abolition of prostitution is not the primary concern of legislation.
- SWAI recommends that scarce Gardaí resources be targeted at serious crime such as violent punters who attack men and women sex workers and that the Department of Justice should consider redefining attacks on sex workers as ‘hate crimes’ and implement initiatives such as those pioneered by the Liverpool police force.
- To decrease the risk of the transmission of HIV, SWAI recommends that the Department of Justice takes cognisance of the UNAIDS Report (2010) which warns countries against the persecution of sex workers and the demonisation of their clients, and urges governments not to conflate trafficking with voluntary sex work.

Criminalising people who buy sex hurts the people who sell it

- Many people who sell sex have no alternate source of income. Criminalising their clients does not give them an alternate source, it only reduces the one source they have. This will increase their poverty and marginalisation.
Criminalisation will not deter violent and dangerous clients - but it will mean those clients form a larger proportion of sex workers’ client base. Sex workers’ decreased income will make it harder for them to turn dangerous clients away.

Sex workers will have to compensate for loss of income by taking on more clients and agreeing to riskier practices which command a higher fee.

At present, good Garda practice in some areas of the country has allowed sex workers to seek police protection when they need it. This will be lost if Gardaí are given a mandate to interfere with the exchange of commercial sex. Sex workers will instead seek to avoid Gardaí, and will be more likely to turn to pimps for protection and to shield them from police interference.

These consequences are not merely hypothetical: all have been observed in Sweden and Norway since buying sex was criminalised.74

**Criminalisation is ineffective in reducing prostitution and trafficking**

There is no evidence that criminalising clients has any lasting impact on the number of people who sell sex. Rigorous attempts to evaluate the claim that prostitution has declined in Sweden have failed to substantiate it,75 this claim, in any event, relates only to the on-street industry, which accounts for “only a fraction of total prostitution” in Sweden.76 Similarly, research from Australia,77 Denmark78 and New Zealand79 disproves claims that legality leads to a larger sex industry.

International evidence also contradicts the alleged link between legalisation and sex trafficking. Germany has recorded a decrease in sex trafficking since sex work was

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74 See for example


decriminalised,\textsuperscript{80} while Swedish police report that rather than deter traffickers, the law has simply caused them to change how they operate.\textsuperscript{81}

SWAI believes that social and economic factors, rather than the legal framework around the industry, are the key determinants of entry into/exit from sex work. These factors include meaningful employment alternatives, social welfare provision, child care costs, discrimination, drug treatment options and restrictions on migrant labour. Any serious attempt to reduce the numbers involved in sex work must \textit{comprehensively} address those factors. An approach that focuses on the “demand” side of the industry and ignores all the reasons why people supply sex for sale is doomed to failure.

\textit{Legal and constitutional implications}

- SWAI also believes there are constitutional implications to a law that criminalises only one half of a consensual transaction. Supporters of criminalisation argue that there is no such thing as consent to sell sex. If this were accepted, otherwise-competent adults would be deemed incapable of consenting to do something for payment that they would not be deemed incapable of consenting to do for free. We are unaware of any precedent for such a policy, and doubt whether it would withstand court challenge.
- We also believe that the sex industry is too diverse for a blanket assumption that anyone who sells sex is by definition a victim of the person who buys it. It is sometimes the case that one or both parties’ personal circumstances contradict this assumption, and in such cases the law would be open to challenge for its discriminatory treatment of the purchaser.
- Furthermore, given that sex workers are unlikely to testify against their income source, prosecutions will be difficult to sustain without resort to hearsay or gross invasions of privacy. This is an unjustifiable waste of Garda resources, which will hinder their ability to target forced prostitution and trafficking where it occurs.

\textbf{7.2 Redefinition of brothel-keeping}

Although “brothel” is not defined in Irish law, the courts have followed the English common law definition which applies to any place where more than one person sells sex. Experience has shown that this law is nearly always used against sex workers themselves, rather than people managing or controlling them. It means that sex workers are liable to arrest and prosecution simply for sharing premises.

\begin{footnotesize}
\textsuperscript{80} Baerbel Heide Uhl, “Did Germany’s legalized prostitution raise the number of trafficking cases as often claimed?” \texttt{http://rightswork.org/2010/10/claim-%E2%80%9Cgerman%E2%80%99s-legalized-prostitution-brought-more-exploitation-than-emancipation-to-women%E2%80%9D/}
This law “runs counter to advice that women should not work alone in the interest of safety”.\textsuperscript{82} It may force sex workers to rely on others to guard their safety or, should they ignore the law, leave them vulnerable to violent clients who know they are working illegally. This denial of access to a safe working environment breaches the right to occupational health and safety, which applies to sex workers no less than to workers in any other sector.\textsuperscript{83}

SWAI therefore calls for the law to be amended to exempt premises shared by sex workers, with no third-party involvement, from the definition of “brothel”.

### 7.3 Re-evaluation of the approach to street solicitation

SWAI recognises the wide range of problems surrounding the on-street sex industry. The current situation is unsatisfactory from the perspective of both street sex workers and affected communities. We believe it is possible to develop an integrated framework of law and social services that best promotes the interests of all concerned but this cannot happen in an environment where street workers are regularly subjected to harassment, arrest, displacement and actual or threatened violence.

It must be remembered that street workers are typically the most vulnerable sex workers and those with the fewest options. Targeting them, or their clients, does not create options for them – it simply forces them deeper into the shadows where they are at greater risk of violence.\textsuperscript{84} SWAI urges dialogue with street sex workers as part of the process of developing a new approach which will maximise their own safety as well as that of the broader community, while promoting meaningful and accessible alternatives to street solicitation.

SWAI recommends that illicit drug users who are sex working and are doing no harm to others should not be punished but should have speedy access to drug treatment and rehabilitation programmes. Those leaving prison or rehabilitation should also be guaranteed a continuum of care. The National Drugs Strategy 2009-2016 refers to drug using sex workers as an ‘at risk’ group, and identifies the importance of improving harm reduction services to them by providing access to needle exchange and condoms (Department of Community, Rural and Gaeltacht Affairs, 2009).

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\textsuperscript{82} UK Home Office, “A Coordinated Prostitution Strategy and a Summary of Responses to Paying the Price” (2006).

\textsuperscript{83} Occupational Safety and Health Convention and Recommendation 1981

\textsuperscript{84} For the negative impacts of the 1993 solicitation law on sex worker safety, see Anne-Marie O’Connor, “Women Working in Prostitution: Towards a Healthier Future”, \url{http://www.drugsandalcohol.ie/5616/1/2030-023Women.pdf}
My name is [name removed] and I think, therefore I am, for I will never deny where heroin and prostitution brought me but I refuse to let it define who I am today, because if it defines me, it becomes me and it is not all I am.

I have chosen now to let you in to the place that it brought me, to share my thoughts on what happened during my time on the Burlington Road, by day it is a beautiful, elegant street where old charming houses stand tall and proud but by night it becomes something far more sinister, for it is the place where men come to purchase human beings for sex. I was one of those human beings for over 5 years.

**MY DEFINITION**

Prostitution is when a human being ceases to be seen as that human being in the eyes of others, and becomes a trapped mind in a body that no longer belongs to her/him.

How that trapped mind copes depends on a wide range of things, but mainly we cope by increasing the very thing that brought us to the street, our addictions, in fact, I only ever met one Irish woman who hadn’t a drink, drug or underlying psych problem. I can only speak for myself with regards my intake of heroin and how it affected me physically and how I used it to block out what I had become but I witnessed the deterioration of other women over the years, many of whom did not even realise it, that was the saddest thing, some of them believed this was the only place they could be, many were second generation addicts, or were children of alcoholics, where sexually abused, grew up in the care system or worse, where homeless from their teenage years. They were women who mostly had never known anything but trauma and had had traumatic lives, so it was all that they knew, this was just the way it was, nobody ever told them it could be different, or they could be something else, for many it would appear that their life script had already been written. The dynamics of the street are quite complex, as we led quiet complex lives, you do not just arrive on the Burlington Road one night and decide I’m working from here, oh no a lot of women have been there long before you and have earned their spot, so to speak. There is a hierarchy system in play and the “normal” stages of group dynamics happen. I wondered around aimlessly for a couple of months, standing at different spots but I knew the one I wanted, it was right across from the side entrance of the Burlington Hotel, I figured it was the safest place because if I needed to run from danger, the hotel was always open. So I kept returning to it and after a while it became my spot, at which I would stand and be purchased for the next 5 years. If anyone would have told me that I would still be there in 5 years I would never have believed them but my mind was beginning to get trapped and I got lost in a paradox.

**THE PARADOX**

Society assumes many views on the issue of choice but they forget one thing, your ability to see choices becomes extremely compromised by the affects of trauma and disconnection from society in general. For me as an addict, I was fortunate, an education, a work ethic, a basic sense of right and wrong, but obviously my life was not perfect, my self-esteem/worth was lost somewhere as I picked heroin up at the age of 33yrs, having never taken any kind of drug before that. In fact it was the set of values I was raised with that actually brought me to the street, as I had an expensive habit but crossing the line into crime, robbery, etc was not an option for me but I knew I had a valuable commodity, for I had a female body which I could sell.

And so the paradox begins, at first you believe you can be strong enough to cope for the short time until you sort your mind out, figure out getting clean. I had a sick child at home so she was my priority, I couldn’t be away from her for very long, I was her full-time carer, infact the only time we were ever really parted for any length of time was when I went out to work. As I’ve said before I never believed when I walked out on the street that first night that it would not only own me within a very short time but that it would take from me everything I thought I once was. Initially it does what it’s intended to do, it pays for your habit but other things were happening that you’re not fully aware of at the time, I was now completely cut off from family, the shame was too much for them, I hadn’t a friend in the world that could maybe remind me of who I was, my only human contact was with the men who bought me and the women who sold themselves beside me. That isolation is painful but the most dangerous thing for me was I had become comfortably numb and disconnected, I had to, and how I did this was to increase my heroin habit, I went from smoking one bag a day to keep the physical withdrawals away, to two bags a day because I needed one every-night I returned home in order to sleep, it wasn’t a case of getting stoned as I had a child to care for, more just a numbing affect, so I let my eyes water up but I’d never cry, I’d get angry but never scream, heroin is an expect at shutting down your feelings.

And then the evitable happens, rape/sexual assault, for me it came in the form of a gang rape that lasted for what seemed like forever, and in many ways it will, for form that night on, I no longer lived, I just existed in a world where I thought humanity no longer existed and even if I saw traces of it, I didn’t trust it. So, now as stated heroin becomes the lifeline to cope with being bought, where it began with selling yourself to cope with heroin, welcome to the paradox, that so very few of us escape from. I am one of the lucky few.
THE REASON IT IS A CRIME

Firstly you must ask yourself one question, Do you believe that people have the right to buy other human beings? When I ask anyone this question, of course they say No but when I ask them Do you believe that people have the right to buy other human beings for the purpose of their own sexual gratification?, they sometimes hesitate. I understand where this hesitation comes from, because they think “well if she/he is offering it”, what’s the problem, two consenting adults, a business transaction!! I say no, this question requires a yes/no answer, you either believe it or you don’t, end of. I stood on that street selling myself but I always knew they had no right to buy me. There are many reasons why women/men find themselves in prostitution and all of them have nothing to do with feeling empowered and even if they did feel delusionally empowered, I don’t care if he/she is offering themselves up in a gold bikini on a silver plater in the pent house suite of the Berkeley Court, No One actually has the right to buy them, period!!

RAPE

This part is so hard to talk about nevermind writing it down. For I fear this is the ultimate crime committed against us that will forever go unpunished. For it is near impossible to prove, unless you are left in intensive care. So we don’t really talk about it, we might mention it to each other but then we move on but we are never the same, well I wasn’t anyway.

It was December, it was freezing cold, there were more then usual out because it was close to Christmas, I got an offer to do a job with another girl, it was for a Christmas party, she said there would be only a few men and that she knew one of them well and we’d be fine. I was a little naïve as I was only on the street for 5mths and the thought getting one large sum of money meant I would not have to come out again until after Christmas, so I went. It turned out to be 8 men in total. I was nervous now but we agreed the terms, what was allowed, what wasn’t, etc, we were paid in full and we got on with it. There was alcohol and cocaine offered, I took cocaine but I didn’t drink alcohol my whole time in addiction, I always thought better to stay away from it, one substance was hard enough to cope with. So you can imagine what went on, not all the men wanted something from us and I did feel somewhat in control, but was aware my friend was getting drunk and the men were aswell and getting loud. When the time was up we were left alone for a minute, I collected my things and told my friend to get ready to leave, I went in to the other room and said, right guys, we’re gonna go and thanks, or words to those effect, but I could feel something had changed, the atmosphere, you could feel it, the hairs at the back of my neck began to stand up, one of them said “your not going anywhere, we’re not finished”, I tried to reason by saying “c’mon fair is fair lads” but I looked at the door and glanced in the bedroom where my friend was still not ready, I couldn’t just run and leave her. The next thing my hair was pulled and I was pushed over the sofa and then it began, I was dragged back into the bedroom where myself and my friend were subjected to an unimaginable horror, we were raped, both anally and orally as well. We were like ragdolls, not even, we were just objects to be passed around, my skin was crawling, my insides felt like they would come right up my throat, I wanted to die. I looked at my friend and I couldn’t protect her, she was much younger then me, much thinner and weaker. I looked at the man who was on top of me, I looked straight into his eyes, I thought can’t you see me, cant you hear me scream and I will never forget the eyes that looked back at me, for they were blank, he looked straight through me. I have spoken to a couple of women who describe the same blank stare, it is frightening. They tried to insert objects inside us, my friend was placed on a chair with her legs wide open. I’m sorry but I cannot speak about what happened next but eventually it ended and they left, thankfully they didn’t take their money back off us so we could get out of there. I picked my friend up, half dressed her and myself and we left. I left the building with a bruised body and face, smelling of urine and bleeding from my rectum, do you now understand how I couldn’t see the choices anymore, as for my friend, she died, I don’t know the day she died, I only know when I hadn’t seen her for a few months after I asked and someone told me, she died of an overdose, it might have been heroin in her arm the day she died but I know what really killed her.

I have gone over that night a thousand times in my head, not the whole night, as sometimes I feel if I go there again I might never come back, but I mean I’ve tried to understand why it happened. I don’t believe when those men picked us up that night that that was what they knew they would do, something changed during the course of the night, it might have been the cocaine use, although I don’t know if all of them took it but put that with alcohol and it’s a dangerous combination, and fuel it with ego and power and a mob mentality, I believe a frenzy began and it over took them. This is not to say that I justify what they did do in any way whatsoever but understanding what happened helps me cope. And then I look at the bigger picture, they were men connected to the celtic tiger, they were men who had made money during this time, I know that by some of the conservations I heard, they felt powerful, we were taken to a building which is now owned by NAMA. A lot of values were lost during the celtic tiger years, ordinary people valued materialistic things, people spoke about how much they’re house was now worth, etc. We were already considered the lowest of the low, for I was a junkie whore, not an elite expensive escort. What I’m trying to say is if you set up the conditions of rape, it will happen, I don’t mean myself and my friend alone in a appt with 8 men, we as prostituted women are a prime target for any man who wants to fulfil the sexual fantasy of rape only with us they can do it for real and get away with it and both society and the laws that govern it have a major role in keeping it that way, and it will remain unpunishable while it remains legal to buy another human being in the first place.

I returned to the street 3 weeks after that night, but I returned in a different way, I was no longer living, I felt my body no longer belonged to me, I now existed. How I coped with this existence was through disassociation, a skill the mind can develop in order to cope with trauma, I had done it as a child. So during the day I was a mother and
cared for my child, smoked heroin in the morning like medication to keep the feelings a bay but at night I became someone else, who was strong, streetwise and not an addict but would return home every night with something to help me sleep. They had separate clothes, separate toiletries, they were very different and yet the same. No I do not have a personality disorder; it is a learned coping skill. At night I learned to read and understand the behaviour of the men who bought me, I worked out who I would be safest with, I took everything into account from their body language, their tone of voice, their profession, their personality traits, everything went into the equation, I would spend hours working out based on all the information, where in their lives they felt inadequate or lacking in power that they were down here replacing it, you work that out and you have the power, some do not take to kindly to this, that was their problem not mine. I was assaulted on two more occasions, when I was caught off-guard, grabbed from behind on the Burlington Rd. But I heard many stories of rape and beatings from the girls but like I said before, it’s mentioned and then its not discussed again. I remained strong on the outside but inside my heart as broken.

TRAFFICKED

I didn’t get to meet many foreign women, I only met one who was trafficked on to the street in those years, for obvious reasons they are kept away, locked up, moved around, infact I didn’t really know the extent of the problem until last year. When I realised how big is was, I was so full of shame and appalled that my country had let it get to this stage. We are connected both prostitutes and trafficked women, although that initial introduction may be different but we are connected because we are bought, used, exploited, humiliated and raped by the same men. They are often gang-raped into submission, to break them down; I understand that only to well. But I find it unimaginable to think of what it must be like to be in a country where you know no one, maybe you don’t even speak the same language.

I was working one night, it was a quiet night when I heard a language I recognised, I had not heard it in some years but I knew it immediately. I looked towards the end of the road and saw a woman talking on the phone. As she approached me, I smiled and asked if she was speaking. … She said yes, do you speak it, I said no but I had been to that part of Africa and recognised it. She was overjoyed; we sat down and spoke for ages about her homeland, good and bad.

We began a friendship but I soon began to notice things, she would have marks on her face, arms and legs, I had a feeling she was working for someone, she began to open up, that someone had trafficked her from home, right across Europe and finally landing in Ireland, at this stage she had been completely broken down, his control was all that she knew, he would beat her if she was challenging, kept her passport, she was put out to work at 6pm and worked continuously until 5a/m every night, she was addicted to crack cocaine and he was the dealer, she had to return with every 100 euro’s she made, she made nothing.

He barred her from speaking to me, but we met at secret places and she kept my number under different male names. I was the only friend she’d had in years, together we had many chats, we laughed at things many would be shocked at, it was our way of coping but we also had hard times, I challenged him, she suffered for it, I challenged the men who bought her when I found out they actually knew the conditions she lived in, one of them said to me, “I know its terrible, I was thinking about moving her somewhere safe, a nice clean appt”, I said are you mad, he replied “it just seems like the right thing to do”, I lost it then and replied “a man who has continued to buy a trafficked woman is trying to tell me about the right thing to do”, “firstly she is a chronic crack addict, how are you going to fix that and secondly she has a twisted sense of loyalty and an unhealthy attachment to her trafficker, I don’t suppose you’ve got a clinical psychologist lined up, you just want to play the hero, this is not a movie, this is her reality and the best thing you can do for her is grab your ego and go home to your wife”, too many men come don’t suppose you’ve got a clinical psychologist lined up, you just want to play the hero, this is not a movie, this is her reality and the best thing you can do for her is grab your ego and go home to your wife, I was so full of shame and appalled that my country had let it get to this stage.

I will end the story of my African friend with one of the saddest things I ever seen and for me it puts it into perspective, I was at home one night alone, as my daughter had become very ill and needed some in-patient care, my phone rang and it was Mr. Hero himself but he was different this time, extremely anxious and had my friend with him, there had been a row between her, her trafficker and another girl. He said it was bad and could he please bring her over, she had never been to my home, I kept work and home completely separate but I said yes, as I was on my own.

She arrived, crying uncontrollably, I’d never seen her so upset, I told him to go and I’d look after her. I hugged her and checked her wounds, as she had blood all over her hands, thankfully everything was superficial. It doesn’t really matter what the fight was about, control, drugs, etc. I made her coffee and we had a cigarette together. I said I would run her a bath and get her some pj’s, she looked exhausted. I ran the bath with bubbles, left out a towel and called her in. I left her to relax and went in the other room, I was closing the window, when she called me, I turned around and what I saw shocked me to the core, for there in front of me my friend stood naked, but she had the body of a child, her rips stuck out, there were no breasts, it was covered in old bruises, new bruises, scratches, she looked like someone who’d just been released from a concentration camp, my eyes welled up but I didn’t want her to see me cry, so I brought her into the bathroom again, she had called me to wash her hair for her as her arms were sore, I washed her hair, took her out of the bath, she put the pj’s on and she sat in between my
legs on the floor as I brushed and blow-dried her hair, she was humming just like a child, I put her to bed and sat beside her until she fell asleep. And then I cried and cried for the lost child I had just put to bed, I’ll never forget the image I saw but this wasn’t a concentration camp, in Poland in 1945, this was my apartment, Dublin, 2010, there was no war but there is no law to protect either.

I recently got to go on an outing with some of the survivors of trafficking organised by Ruhama, it was to Dublin Zoo, I took my adored granddaughter with me, she’s 15mths old as I knew some of the women would have their children and there happened to be a little girl approximately the same age as her, they played together as children do, for children don’t see colour, only adults do. We had stopped to see the giraffe’s, they have a new enclosure since I’d last been there and a new baby giraffe. I picked the little girl up to show her, they’re giraffes I said and they come all the way from Africa, she wasn’t that bothered, she like all toddlers was more concerned with trying to climb the fence or attempt to climb the rock, my granddaughter just had managed, normal toddler adventures, yes, she like my granddaughter kept us on our toes that day.

But I looked back around at the giraffe’s, beautiful, graceful creatures from Africa, and then it occurred to me, we bring these animals to our country so that children get to see them. We treat them so well, give them to appropriate shelter, food and settings so they can grow, be healthy and happy, and rightly so. But they are not the only thing that we now import to Ireland, for we now import women and children from Africa to satisfy the needs of a certain type of men and it is not to be admired and treated with respect like the giraffe’s, oh no it is for very different reasons and none of them have anything to do with admiration and respect. I picked up that little girl again, I hugged her and kissed her cheek and I apologized to her on behalf of my country, I apologized for what has happened to her beautiful mother but I told her things were about to change. I did not continue on to see the rest of the African plains, how could I after making that connection in my head, could you.

SILENCE

Silience is golden, they say, no it is not, peace and serenity is golden, silience can be deadly. Why has Ireland stayed silent for so long regarding the purchase of human beings for sex because it places a different value on women like me and a different value on the women that are trafficked into this country. It is something most people would not admit to, placing the value of one woman over another, sometimes they don’t even see it. But I only have to think what would be happening if the women where being trafficked in from America or Germany, do you think we would tolerate it then, I think not, so if I was a woman born to a “respectable” family from Manhattan, I would be rescued, supported and returned home safely, for America is of great value to us, but if I am born into poverty, uneducated and tricked into coming here from a Eastern European country, I am not entitled to the same treatment because that country is of no value to us, how do we decide this, what right do we have to decide which human being is more valuable then the other.

Hasn’t Ireland had enough of silience and secrets, report after report, dirty secrets about exploitation and sexual abuse, but we have acknowledged the wrongs that were done and now we are questioning and looking for answers from the ones who stayed silent and rightly so. It is a most shameful part of my countries history and are we now willing to create another, I am not, and I, just like history, will not recall the actions of my enernies but the silience of my friends.

PROTECTING THE GOOD CITIZEN

I believe this is where we struggle because for the most part the men who buy human beings for sex are exactly that, they are good citizen’s, in that they are in gainful employment, so they pay their taxes, they pay their rent or buy homes with their partners, they have 2.4 children, they tick every box the society deems to be correct, so we want to acknowledge that the good citizen is a bad human being, I understand that fear, for we hate to upset societies little applecart.

I, on the other hand would be viewed as a bad citizen, I didn’t have a job, I was supported by the state, I was a heroin addict and worst of all, I stood on a public street displaying my wears, luring these good citizens to me, as if they had no choice. But I am a good human being, I always have been. This is the balance you must find between the good citizen and the good human being and which one of us comes first in the queue for protection.

THOSE WHO SERVE AND PROTECT

I never met a officer or a detective who didn’t want to system to change, not that I would have had conversations about the campaign, for I didn’t even know it existed. But they often seemed frustrated, annoyed, not towards us but the offenders. I now understand their frustration, for their hands are tired. Many of the officers have watched women work 20yrs on that street, they have witnessed and heard many horrific stories of rape and abuse. They know more then most that none of us are there because we want to be.
In those years, I never witnessed any officer being disrespectful or inappropriate towards me or any of the women, in fact at times they had to handle women who were angry, high on cocaine, unpredictable and inappropriate, they seemed to understand or they are trained well. I was shown compassion many times by the officers that got to know me, they were a little curious as to how, an articulate, intelligent woman, who worked for a government department for 10yrs, could come to be here, they were curious but never judged me.

I received many cautions for soliciting, I never minded getting a caution for two reasons, one it proves that I existed on that street and two when the figures are done up at the end of the year, if there were no cautions, people may be inclined to believe street work had disappeared and would forget.

I was brought to court once and charged with soliciting but the officer involved did not show up and it was dismissed. I went to work that night, and that officer came looking for me, I found out that he had no intention of showing up, for it was not me he wanted to convict but the man who purchased me. He said he also felt I would find my way out of the street one day and he didn’t want me to have a conviction, I couldn’t see that possibility at the time, but I’m very grateful to him now.

To the officers at the top who are involved in the discussions and debates, if the debate comes down to the counting of numbers, 15 children last year, 8 children this, its going down, thats going down, that fact that there are any children found here in sexual slavery is appalling and what might be going down, is the fact that the traffickers are getting smarter. These officers must keep in touch with their front line, the officers who see the damage and pain first hand, the ones that rescue women or find them in the middle of the night on a street they don’t know, having just escaped. Often when you have been away from the frontline, you can get a little disconnected, and it’s about budgets and staffing and figures. If that is where your struggle is, then you need to reconnect and remember why you where you are, to serve and protect.

I will stand by any officer in my country, as they stood by me when nobody else cared.

TO THOSE IN POWER

“We must take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. Sometimes we must interfere. When human lives are endangered, when human dignity is in jeopardy, national borders and sensitivities become irrelevant. Wherever men and women are persecuted because of their race, religion, or political views, that place must - at that moment - become the center of the universe.”

Elie Wiesel,
Holocaust Survivor
Nobel prize winner
Protector of Freedom

The above quote just about sums up all you need to take into account. For human trafficking is the modern day slavery and sexual slavery is the most appalling of crimes, for it removes human beings of all their human rights and dignity. To do nothing is to play an active role in it happening. The world over is waking up to this, my country has no choice put to stand up to it. For freedom is something Ireland had to fight for itself, so we should have no struggle with fighting to protect the freedom of other, no matter what country they come from.

TO THE LAWMAKERS

Firstly I would like to remind you of the laws we implemented that were brave and challenging:

We were the first country in Europe to implement the no smoking ban.

We were the first country in the world to set to CAB, to rightfully remove the profits of crime from criminals.

Why then do we struggle to be the 4th country in Europe to outlaw the purchase of human beings??

You must end this struggle and take another brave but challenging step towards change for the good of all, that is the job of the lawmakers, to protect, to implement laws the maintain social security, and strive to find the ideal. Laws have a direct impact on behaviour, believe me if this is implemented, things will change.

THOSE THAT OPPOSE

You only support legalisation, if you have a vested interest in it, it doesn’t make sense otherwise. This interest can be academic, political, financial or personal. There is sometimes an awful glamour attached to taking the wrong side.

Groups like the SWA(sex workers alliance), all I can say is that I never heard of them until last year, does that not tell you something, it should, for they claim to represent who I was, yet I never met one, they never came down to the street to introduce themselves, they didn’t have a helpline if any “worker” who was in trouble.
I know what this tells me, it tells me that they only care for an elite group, and that is a very different argument, and it is based more on a need to have their own behaviour sanctioned to serve their own needs and wants, and that argument has nothing whatsoever to do with freedom, justice and equality.

TO END

I end my submission now, and you will forgive me if all my words to not run smoothly, this as been an incredibly hard piece to write as it is so personal to me. As for me, I do believe it is not the first time you will read my words, and not because I intend to write a tell all book, no, because I aim to be on the panel of experts that will be formed to review my countries new legislation in ten years time. For today Friday the 31st of August, I send you this but on Monday the 3rd of Sept, I walk through the gates of the university of my dreams, to do a specialised degree in humankind. I survived because I questioned and challenged, I have a mind that can adapt, and I have a love of wisdom, yes my life was tragic but it was never absurd, and that is because, my learned friends, I have always had the Audacity of Hope and the ability to reason.

I leave you with the words of someone who lost they’re freedom & their life, there is a reason why we remember these words,

“At any moment, anyone can do something to make the world a better place” Anna Frank

And if you haven’t realised it by now, this is your moment, don’t let it pass you by.

True healing begins when someone bares witness. My real name is [name removed] and I have just born witness.
MY FATHERS WORDS

I stand by everything my daughter is, everything she was and everything I know she will be.

MY DAUGHTERS WORDS

My mother thinks I’m the strong one, but she is the bravest person I know, she’s a little odd at times but only because she sees the world a different way, I love my mother and I love the way she sees the world.

MY SISTERS WORDS

As children, the games my sister and I played, mammy’s and daddy’s, wheeling our babies around, dressing them and us up, happy care free days, childrens imaginations at work, the way it should be. Many years later my baby sis is a survivor of many things, the things of the worst horror movie you can imagine….. You know the ones that to you are unbelievable or unsurviroral and therefore only a story! But the truth is for many these horrors are a daily reality, children playing not the games of yours or my childhood but a reality game invented by Adults who have stolen their innocence and sold their bodies to the highest bidder.

I look at my sister now some of that sparkle of our childhood will never return, then I look at my daughter and I know this has to stop! As human beings so called civilised, we need to unite and TURN OFF THE RED LIGHT NOW. I could not protect my baby sis, that guilt never leaves me but perhaps supporting this campaign will protect your baby sis! So help us and turn it off!
2012/999

Response to Discussion Document on the Future of Prostitution Policy

Submission to Joint Oireachtas Committee on Justice, Defence and Equality

Submitted by:

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Author Declaration

The views expressed in this submission are entirely those of the author Dr Kathryn McGarry and do not necessarily reflect the view of the Department of Applied Social Studies, NUI Maynooth or the institution of NUI Maynooth. Please note also that this submission is separate to a SWAI submission on which the author has also collaborated.
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Introduction

This submission is based on the findings of a recent doctoral study on the experiences of sex workers in Ireland\(^1\). Specifically, the submission argues against the criminalisation of sex work and, drawing on the lived experiences of sex workers themselves, argues that Irish prostitution policy should seek to address the risks that sex workers are exposed to. The thesis, on which this submission is based, was an in depth qualitative study of sex work. It found that sex workers in Ireland are engaging in a risk environment which is filtered through the contexts of policy, services and micro level interactions. Any consideration of policy change to address prostitution should seek to ‘enable’ rather than ‘disempower’ individuals negotiating risk within this environment.

The Law and Sex Work

Broadly, three main legal positions on prostitution can be observed; criminalisation, decriminalisation and legalisation. Indeed, strict categorisations are often limited as many variations of these categorisations exist through different policy formations. Furthermore, cultural context has important ramifications for the support of particular systems of prostitution\(^2\). The shaping of political culture around a society and its values, principles and social ideals are general indications of the reasons for the development of particular approaches to prostitution in a specific context. It is argued that a context of risk exists when governance limits the power a sex worker has over his or her work thus increasing the likelihood of exposure to risk; ‘To the extent that the state apparatus ignores, or defines as illegal this “work”, an individual has little room to exert control over the sex “work” activities’\(^3\).

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Current Laws on Prostitution in Ireland

The current legislation (Criminal Law (Sexual Offences) Act, 1993) fails to provide any risk protection for those engaged in prostitution, and the absence of any desire to understand the lived experiences of prostitution at the time of its introduction weakened the potential for any comprehensive debate on the area.

The law on prostitution, as it stands, criminalises females and males (clients) equally. However, official statistics at the level of institutional response paint a very different picture. In the first year of the enactment of the current 1993 legislation (1994), 112 women in prostitution were arrested for soliciting as contrasted with only 12 men. These figures continued to dwindle for both males and females, or rise significantly during periods of increased vice reactivity, often in tandem with public and media calls for action. Notably, however, the figures remain disproportionate and gendered and reflect the discretionary powers of the Gardaí in the interpretation of macro level governance, a situation paralleled with Canadian ‘public nuisance’ laws45.

Research conducted by the Women’s Health Project subsequent to the implementation of the new legislation in 1993 found that the new law had impeded the work of women on the streets resulting in a stressful working environment and a decline in working conditions6. The most serious implication has been the increased risk taking of women, anxious to make money while trying to avoid detection by police. A government discussion paper rejects the notion that the 1993 law on prostitution has increased the possibility of violence and avoids the issue of prostitution victimisation stating; ‘it is difficult to understand how an increased level

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of assault could be the case; it may be a perception rather than a reality\(^7\). While the lack of comparative empirical evidence prior to 1993 makes it difficult to validly counter this argument, data collected in Ireland after the introduction of this legislation indicates significant levels of violence on the streets and extensive experience of violent attack\(^8\)\(^9\)\(^10\)\(^11\).

### Lived Experiences of Sex Workers

The essentially ‘criminalised’ status of those engaged in prostitution under legislation in Ireland limits their autonomy over their choices in life and could also be regarded as weakening their ability to keep safe. All of the street based participants in the qualitative doctoral study on which this submission is based made calls for legislative change in order to make their working environment safer through the intervention of the Gardaí to monitor risk. The narratives of the street working cohort point to the challenges of navigating risk in a criminalised context as they call for safer working environments. They propose varied ideas around legalisation, regulation and street zoning as well as other alternatives for promoting sex worker safety. Crucially, the participants in the study affirm that official recognition would mean their safety would be an institutional priority, serving to deter violent clients, legislativing formal protection and safety and fundamentally making street workers feel safe.

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It has been noted that ‘victimisation reflects women’s lack of power to demand safe working conditions and police protection’\textsuperscript{12}. This reality is simultaneously compounded by sex worker’s reluctance to report attacks\textsuperscript{13} thus feeding into the ‘inevitability discourse’ surrounding prostitute victimisation\textsuperscript{14}. While most of the participants reported a positive relationship with the police, there was still a reluctance to report violent attacks to the authorities, which must be considered in terms of perceived ‘illegal’ status of sex work activities. One participant argues that reporting attacks is a pointless exercise as, she contends, the police will not listen to her and the judiciary are biased against women in prostitution:

“They [the guards] don’t listen to prostitutes I just don’t think they listen to us...I mean it’s always one of those things ya know ya turn up in court and they’re all like ya know..this prostitute ya know got raped the other night..what’s the judge gonna say..well she put herself at risk ya know...how can you prove this man didn’t pay money an she’s only tryin to pull a fast one.. so I never did anything about it”.

The unknowable is an ever-present danger in the lives of those working in prostitution, thus, by amending legislation to provide for the safety of women in prostitution, the ‘\textit{mental torture}’ of feeling unsafe, alluded to in the research, would indisputably be lessened.


Implications of the Criminalisation of Prostitution

As argued above, a context of risk emerges when legislation hinders the ability of sex workers to protect themselves from risk; ‘To the extent that the state apparatus ignores, or defines as illegal this “work”, an individual has little room to exert control over the sex “work” activities’.15

More recently, calls have been made by various interest groups to introduce the Swedish model of prostitution policy. The Swedish model of prostitution policy addresses prostitution through a ‘violence against women’ framework. This model, which decriminalised prostitution for sex workers but criminalises clients is rooted in an ultimately abolitionist agenda. By focusing criminalisation on the demand side, the goal is to drive prostitution out of the country. What has been found is that prostitution activities have now largely moved underground in Sweden; therefore becoming less visible rather than less common1617. The chameleon that is prostitution means that in the face of repressive policies, it does not retreat, it changes form1819.

Viewing all women in prostitution as ‘at risk’ blurs the picture and does not allow for targeted interventions where needed. The abolitionist perspective is based upon the assertion that prostitution ‘is in and of itself, violence against women’20. This


contention is argued as reducing prostitution to heterosexual exchange between a female prostitute and male client, wholly disregarding the realities of male sex workers and other minority sexual groups\textsuperscript{21}, and also failing to ‘distinguish between acts to which the sex worker has consented (however mistakenly), and acts which leave her physically harmed or dead, thus denying any opportunity to reduce or deny the later kind of violence\textsuperscript{22}. This ideological debate has particular implications for how prostitution and sex trafficking are viewed, and whether both become subsumed into general discourse on sexual exploitation of women. If all prostitution is treated as exploitation, there is no room for distinguishing between forced and voluntary sexual activities\textsuperscript{23} (however misguided this volunteerism may be) and all sex workers are regarded as victims. Worldwide, the phenomenon of sex trafficking is still sadly prevalent and is also a reality for Ireland as a destination, source and transit country where women and children are violated through trafficking for the purposes of enslavement in prostitution\textsuperscript{24}. The ability to isolate and specifically target victims of sex trafficking, coercion, exploitation and enslavement in the sex industry is severely compromised when all activities associated with the sex industry are regarded as exploitation\textsuperscript{25}. This point is echoed by those arguing that when there is no qualitative difference made between the ‘violence’ of society which forces someone into the sex industry, and the violence that manifests itself in

\textsuperscript{21} When prostitution is regarded as “violence against women”, the sexual exchange in prostitution is only recognised as that which can happen between a female sex worker and a male purchaser thus ignoring the experiences of male sex workers, transgender/transsexual sex workers or the issue of female clients of male sex workers, a phenomenon documented by research in the Caribbean (Kempadoo, 2004)


beatings, rape and murder, then there is no incentive to recognise, understand or reduce this latter type of violence.  

What should be the Goal of Irish Prostitution Policy?

Key to any discussion on goal of prostitution policy should be implications for the public health and human rights of those working in prostitution. The official stigmatization of those in prostitution through the present legislation has isolated, sanctioned, arrested and further marginalised women and men who sell sex. A context of risk, as alluded to above, has been formed as a consequence of the legal situation in this country. The findings of the doctoral research on which this submission is based concur with previous international research which argues that those who work in prostitution under criminalised regimes are negatively affected by the law and have diminished capabilities to execute risk management strategies, thus exposing them to greater risk.


It has been noted that while feminist positions share a general preference for
decriminalisation, this is often for very different reasons and ‘differences in justifying
this legal preference lead to different programs and legal support policies’. Therefore supporting partial-decriminalisation, like in Sweden, is underpinned by an
intention to eliminate prostitution by targeting demand. Programmatic initiatives then supporting such policy change would remain consistent with an abolitionist approach, focusing on exit strategies and, thus, neglecting to deliver supports to those who choose to remain in prostitution.

Many scholars and activists in the UK have made public calls for government to engage and actively work with the complexity of sex work to promote social justice and cultural citizenship (by valuing all voices), not merely providing partial justice and inclusivity for sex workers contingent on their exiting the sex industry.

When abolitionist perspectives dominate prostitution policy (such as through the Swedish model), this impacts the provision of supports to sex workers as services become incentivised through funding to encourage sex work exit. Policy

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regarding prostitution in Ireland should be harm reductionist in ethos which would allow for services to formally focus on the minimisation of harms associated with prostitution, as opposed to focusing on the minimisation of prostitution. This then allows for explicit channelling of efforts into making sex work and working environments safer for those involved."44

“Models of best practice” in relation to government approaches to prostitution internationally are indeed dependent on the key objectives/perspectives underpinning such approaches. As argued above, the Swedish model, has certainly been found to be less than favourable as an approach to “protect” sex workers;45 however, other more pragmatic regulatory models worldwide have also been found to be similarly lacking.46 Fundamentally, while there are arguments, ideological and otherwise, for and against the merits of different prostitution policies or systems, what should be of greatest concern in any debate is the effectiveness of policy in safeguarding the health and human rights of sex workers. Much empirical work suggests the decriminalised system such as that of New Zealand as going in the right direction in this regard.474849


Conclusion

Essentialist agendas need to be set aside to make room for practical harm reduction supports and strategies which should intervene and protect those who are vulnerable, and acknowledge those who do not conform to the ‘victim’ identity\(^{50}\). It is clearly flawed to suggest that a change in legislation governing prostitution will eliminate violence and engagement in risk behaviours associated with sex work, yet it is imperative that policies do not make the position of those it impacts any more insecure. While the elimination of prostitution is a far-fetched ideal, minimisation of harm for those engaged in prostitution is practical, achievable and long overdue in Ireland.

Submission to Joint Oireachtas Committee on Justice, Equality and Defence:

Written submission on ‘Review of Legislation on Prostitution’ 2012/1024 (2)

INTRODUCTION

The Irish Feminist Network (IFN) is a non-governmental organisation committed to promoting gender equality across all aspects of Irish society, and with over 3,000 supporters is Ireland’s fastest growing feminist organisation. The IFN campaigns on feminist and equality issues and lists prostitution and sex trafficking as one of its key strategic priority areas. The Irish Feminist Network welcomes the publication of the ‘Discussion Document on Future Direction of Prostitution Legislation’. As a member of the Turn Off the Red Light campaign, the IFN is in favour of criminalising those who buy, but not those who sell sex.

The IFN views prostitution and sex trafficking as instances of violence against women and children. Through the global sex trade, women and children are subjected to grave human right abuses, which are both symptomatic of and further perpetuate gender inequality. The sex trade is driven by poverty, as it exploits women and children in desperate circumstances. The IFN therefore understands prostitution and sex trafficking as part of a wider problem of gendered economic inequality, which needs to be addressed.

Prostitution and sex trafficking have no place in a society that values human dignity and respects equality. As a reflection of our values, we must aim to stem the proliferation of the sex trade as much as possible. The best way to do this is by criminalising those who buy sex, decriminalising those who sell it and offering support services to people in prostitution.

As the sex trade is fuelled by demand, curbing demand is essential to undermining an industry that is largely controlled by organised crime, and that has, thus far, been allowed to act with virtual impunity in Ireland. By making it illegal to purchase sex, the industry would be significantly undercut, as the demand for the purchase of sex (which currently sees at least 1,000 women being sold on the internet at any given moment) would be reduced.

Making the buying, but not the sale of sex illegal, providing significant support services for people who have been trafficked and/or who are in prostitution, and addressing gendered economic inequality, are therefore essential measures to ensuring the equal dignity of women, children and men in Ireland.

Submission to Joint Oireachtas
Committee on Justice,
Equality and Defence:

Written submission on ‘Review of Legislation on
Prostitution’

THE CASE FOR MAKING THE PURCHASE OF SEX ILLEGAL

Violence within the sex trade is endemic. Research indicates that there is no safe location for prostitution. Prostitutes face physical violence, rape, sexual assault and degrading treatment whether they work on the streets or in indoor locations. Furthermore, prostitution is abusive by its very nature. In the words of Lynn and Rick Frey, whose young daughter, Marnie Frey, was murdered in prostitution, ‘There is no such thing as a ‘clean safe place’ to be abused in.’ Prostitutes are abused in so far as their bodily autonomy is forfeited by means of a cash transaction which supposedly represents consent. The proceeding interaction constitutes the sexual exploitation of a woman’s body by a man who can afford to pay for it, the buyer. As a result of this abuse, those in prostitution face mental health problems including depression, anxiety disorders and post-traumatic stress disorder. The buying and selling of women’s bodies and the inherent dehumanisation and violence involved is absolutely at odds with respect for gender equality.

The sex trade also preys on those experiencing economic inequality. In terms of consent, there is no clear distinction between those who have been trafficked and those who have entered prostitution seemingly of their own free will. Such seeming choice is usually the result of poverty, life circumstances, deception and exploitation. These women do not fit into the definition of trafficked but neither have they made free choices to enter the sex trade. The same can be said of women who entered the sex trade as children, which studies have shown could make up 75% of people in prostitution. The issue of consent is undermined when we consider the children and women of lower socio-economic status who ‘freely choose’ to become prostitutes.

The best way to combat the sex trade in Ireland is by criminalising those who buy sex, decriminalising those who sell it and offering support services to people in prostitution. This model has been successfully adopted in Sweden, where street prostitution was halved as a result. The law has also acted as a disincentive for traffickers and pimps. This approach

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3 (Lynn & Rick Frey, 2008)
5 (Kelleher et al 2009, Lawless 2005)
6 (Women’s Resource Centre, 2008)
Submission to Joint Oireachtas Committee on Justice, Equality and Defence:

Written submission on ‘Review of Legislation on Prostitution’

works because it changes social norms. The risks of disclosure and of a criminal record would act as strong deterrents for men considering purchasing sex. In fact, buyers have themselves identified these as the most effective deterrents. Furthermore, criminalising the purchase of sex would send a clear message that women and girls cannot be bought and sold like commodities. As a society that abhors violence against women and respects gender equality, this legislation would reflect our values and offer clear guidance to young people on these issues. Finally, it is essential that significant support services are made available to the women and children who have experienced both physical abuse and mental trauma in the sex industry. As the real victims in the situation, it is important that they are not criminalised for selling sex, but supported and facilitated to leave the industry if they choose. Also, the wider, structural issues of gendered economic inequality need to be addressed to protect women and children who are vulnerable and therefore easily exploited.

CONCLUSION

Prostitution and sex trafficking constitute physical and mental violence against women and children. The trade’s attendant human rights abuses dehumanise women and perpetuate gender inequality. The sex trade is driven by poverty, as it exploits women and children in desperate circumstances. This is part of a wider problem of gendered economic inequality, which also needs to be addressed. Prostitution and sex trafficking have no place in a society that values human dignity and respects equality. We must work towards eradicating them by criminalising those who buy sex, decriminalising those who sell it and offering support services to people in prostitution. This approach will be effective because criminalisation will deter potential buyers, reducing demand and thus stemming the proliferation of the sex industry. The Irish Feminist Network supports the Turn Off the Red Light Campaign and urges the Government to implement the legislative changes recommended here.

FURTHER INFORMATION

For further information or clarification on any of the above, please do not hesitate to contact the Irish Feminist Network at: 0857640216, 0877448916 or irishfeministnetwork@gmail.com

http://www.sweeden.gov.se/sb/d/4096/a/119861

(Ekberg, 2008)

(Farley et al 2011 & McLeod et al 2008)
PROSTITUTION

The Public Health Dimension

Derek Freedman, M.D., F.R.C.P.I.
St. James’ Hospital, Dublin.
The Clients

- A lot of data on Sex Workers
- Little on Clients

*I see the clients!*
Who are the clients

- Singles, Partners, Husbands, Neophytes, Fathers, Sons, Uncles, Grandparents, Professionals, Laborers, Tradesmen.
- Technicians, Bond Dealers, Lawyers, Accountants, Doctors, Judges, Plumbers, Electricians, Carpenters, Bricklayers.
- Tourists, Travellers, Stags and occ. Hens.
- Aunts, Cousins, just ordinary people.
Hook Up – it's easy!

- Internet
- Media
- Mobile Phone
- Parlours
- Street
WHY?

- Curiosity
- $\text{C}_2\text{H}_5\text{OH} + ??$
- Groupie
- Sociophobia
- Loneliness
- SEXUAL ADDICTION
- Sociopath
WHY?

Failte Ireland
WHY?

—just seeking

Comfort
Breaking the Barrier

Hooked!
The Consequences

– STI’s rare in Clients - Western Europe, North America, Australia

– “Safer with a professional, than a gifted amateur”

– Risk ↑ SE Asia, E. Europe, Africa
The Consequences

- Anxiety  Stress
- Guilt       Remorse
- Fear of Infecting Spouse/Partner

-May be Overwhelming, Disabling and progress to a full blown Psychosis
Our Aim

– Preservation
  – Marriage, relationship, family unit
  – “Why let a stupid drunken episode destroy a family unit”

– Deal with the underlying Cause(s)
  Addiction, Sociopath, inadequacy, C₂H₅OH
Think

–Before you criminilise the client

–Effect on family and society
We all like solutions

SIMPLE SOLUTIONS
Life is a Scrambled Egg
We need to set Boundaries

For Client and Worker
We Must Protect

From

For Sale
Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the

Future Direction of Prostitution Legislation in Ireland

Submission by:

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Submission Date: 31 August 2012
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Increased penalties

Shifting focus away from the supply side of prostitution

Remove the defence of ‘strict liability’ in relation to child prostitution and victims of trafficking.

Establish exit programmes for those engaged in prostitution.
Develop gender specific, safe and purpose built accommodation for victims of sex trafficking

6. Conclusion
Executive Summary

Recommendations

- The criminalisation of demand for paid sexual services.
- Shift the focus away from the supply side of prostitution. i.e. do not criminalise people engaged in prostitution.
- Increased penalties and custodial sentences for persons who profit from the organisation and control of prostitution i.e. the pimps, landlords and people recruiting abroad.
- Remove the defence of ‘strict liability’ in relation to child prostitution and victims of trafficking.
- Establish effective exit programmes for those engaged in prostitution.
- Develop gender specific, safe and purpose built accommodation for victims of sex trafficking.
- Develop unified Asylum Process and clear and concise Immigration Legislation.

About Doras Luimní and our work

Doras Luimní is an independent non-governmental organisation working to support and promote the rights of migrants living in Limerick city and county. The core areas of our work are direct support, advocacy and campaigning, and integration planning. We have a dedicated anti-trafficking office and lead an outreach project for those engaged in street based prostitution.

National Context

- Evidence suggests that between 93-97% of women working in prostitution in Ireland are migrants (Kelleher et al, 2009).
- There is a large number of migrant women involved in both indoor and outdoor prostitution.
- Migrant women are particularly vulnerable due to issues relating to social welfare, language, and other barriers.

Prostitution in Limerick

- Limerick has a high level of organised prostitution. Since 2010, 126 people have been arrested as part of one Garda-led operation alone\(^1\). There have been a number of high profile court cases recently indicating the lucrative nature of the business.
- There is a particularly high involvement of organised crime in prostitution in Limerick\(^2\).

• The Gardaí in Limerick launched two effective operations against prostitution in 2011-2, focusing on both the pimps and men who buy sex. We believe that this operation offers a template for an effective police response to prostitution.
• The recent Garda operations resulted in significant public debate locally on prostitution and men who buy sex which, we believe, highlights the need for a widespread change in attitudes towards prostitution.


1. About Doras Luimní

Doras Luimní (Doras) is an independent non-governmental organisation working to support and promote the rights of migrants living in Limerick city and county. The core areas of our work are direct support, advocacy and campaigning, and integration planning. We operate an advice and information centre for migrants, facilitate and lead on integration planning locally and campaign at a regional and national level on key issues that affect the human rights of migrants.

Doras is a key member of the Turn Off the Red Light Campaign (TORL) which lobbies for the introduction of criminal sanctions against the purchasers of sex as a way to discourage demand for prostitution. This campaign is run by an alliance of 56 networks, umbrella groups, trade unions and professional bodies with considerable membership across a broad spectrum of Irish society.4

Our Expertise:

- **Migrants’ rights**: Doras operates an Advice and Information Centre with experienced case workers who work on a daily basis with migrants on a variety immigration related issues.
- **Asylum and immigration law**: Doras has an experienced Legal Officer and Intern who are both highly experienced in the area of asylum, immigration and refugee law.
- **Anti-trafficking legislation**: Doras operates an Anti-Trafficking Office, which works closely with other organisations in the area of human trafficking. This office also participates on local and national campaigns on anti-trafficking measures and on the implementation of the National Action Plan To Prevent and Combat Trafficking of Human Beings 2009-2012.

Doras Luimní’s work in Anti-Trafficking

Anti-Trafficking is one of our core campaign areas and we have a dedicated Anti-Trafficking Officer. This office participates in local and national campaigns against forced prostitution and sex trafficking in Ireland and manages the Doras street outreach project to people affected by prostitution. We also facilitate a multi-agency anti-trafficking steering group in Limerick ensuring a regional response is represented at a national level.

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4 The TORL alliance includes so far: AkiDwA, Aoibhness Refuge, APT (Act to Prevent Trafficking), Barnardos, Bray Women’s Refuge, Communications Women’s Union, Domestic Violence Advocacy Service, Doras Luimni, Dublin Rape Crisis Centre, Focus Ireland, FOF (Feminist Open Forum), FOMACS (Forum on Migration and Communications), Freedom From Pornography Campaign, Group of Independent Senators Taoiseach Nominees, ICTU, Immigrant Council of Ireland, Impact, Inchicore Women’s support Group, Irish Country Women’s Association, Irish Feminist Network, Irish Girl Guides, Irish Medical Organisation, Irish Nurses and Midwives Organisation, Labour Party, Men’s Development Network, MRCI, NASC Cork, National Women’s Council of Ireland, Public Service Executive Union committee, Rape Crisis Network Ireland.
Doras Luimní’s work with migrants affected by prostitution in Limerick

Doras Luimní developed a counter trafficking street outreach project in 2011 in partnership with a Limerick-based Sexual Health Centre. The rationale for developing this project related to our concerns and evidence that the majority of people working on the streets are migrant women (mostly Romanian and Eastern European) and our concern for the safety and well-being of this marginalised cohort. We firmly believe that many of these women may be victims of trafficking and our aim is to support them to exit their situation.

This work involves weekly outreach working with migrant women engaged in prostitution to open up avenues of service provision locally. This cohort is particularly vulnerable to abuse and exploitation and are marginalised from mainstream society and services for the following reasons:

- Engagement in on street prostitution is widely stigmatised and socially constructed to be immoral and deviant;
- Little or no recourse to the law as the illegal nature of their work deters them from reporting crimes committed against them by pimps or members of the public;
- Limited access to social welfare due to restrictions of the Habitual Residency Condition (HRC);
- Difficulties due to the language barrier as most women engaged in on-street and indoor prostitution in Limerick are migrant women;
- Usually prostitution-related activity takes place at night, which places them outside the remit of most social-based services. This renders them particularly vulnerable to abuse and exploitation and could prevent them from leaving prostitution.

2. The experience of migrants affected by prostitution

People engaged in on-street prostitution also engage in indoor prostitution as well as travel to various other cities and towns throughout Ireland to satisfy purchasers demands. The following are some of the reasons why migrant women are trapped in this cycle of exploitation:

- Barriers to social welfare entitlements: According to a recent Doras/Nasc/Crosscare publication 5 migrants face many barriers to social welfare entitlements due to poor information provision, adversarial approaches, misapplication of the Habitual Residency Condition (HRC), processing delays, loss of social welfare entitlements due to temporary absences from the State leading to temporary homelessness (due to failure to continually satisfy HRC). This is especially problematic for women who are primary caregivers of children and face the risk of being exploited through being placed in a position of economic vulnerability. Migrants often do not satisfy the HRC as they have not been habitually resident in the country to meet the qualifying factors. This is especially problematic for women who wish to access services such as rent allowance schemes, domestic violence shelters (where obtaining a place in based on one’s ability to obtain rent allowance) and also prevents people from living independently, which again, increases their vulnerability to abuse and exploitation.

5 Person or Number? Issues Faced by Immigrants Assessing Social Protection - A “snapshot” of 54 cases presenting to NGOs across Ireland - Doras Luimní, Nasc, Crosscare. 2012
● **Undocumented status:** Migrants are vulnerable to exploitation if they enter the country undocumented or, if they later become undocumented.

● **Work permit issues:** Migrants sometimes become undocumented due to restrictions of work permits and exploitation of employers of work permit holders. This is particularly pertinent to women working as carers or domestic workers.\(^6\)

● **Trafficking:** Women and children are trafficked into Ireland and forced into prostitution.

### The asylum process and its impact on vulnerable female migrants

Immigration law, practice and policies in Ireland have contributed to the changing nature of prostitution. The delay in the asylum and immigration process, direct provision, and the lack of clarity in relation to general immigration issues has significantly affected the nature of prostitution.

The issue of women, single or otherwise, being left in hostels, that are usually located in isolated areas not permitted to work, and with little or no chances of integration leaves them vulnerable to exploitation (it is worthy to note that men in the same situation are also known to be engaged in male prostitution due to the very precarious situation they find themselves in).

The Direct Provision (DP) system was established with the aim of processing asylum claims over a 6 month period. However, this is not the case and Asylum Seekers often spend years in the asylum process leading to poverty and frustration which leaves women vulnerable to prostitution. Furthermore, the EU Council Directive 2003/9/EC ‘laying down minimum standards for the reception of asylum seekers’ states asylum seekers should be allowed to work 6 months after having lodged a claim for asylum. Ireland has not opted into the clause which allows asylum seekers to work.\(^7\) There have also been instances where women have been approached outside of DP Centres and solicited for commercial sexual services.\(^8\) Additionally we are concerned at the lack of gender guidelines in the asylum and reception processes (Akidwa, 2010; 2012).

### 3. Prostitution in Limerick

Outside of Dublin, Limerick has recorded the highest number of detections of prostitution and brothel keeping in the Republic.\(^9\) In 2010, 68 prostitution offences were recorded in Limerick. There were two major targeted policing operations (Freewheel and Quest) in November 2011 and May 2012, which led to widely reported raids, arrests and prosecutions in Limerick. This has ensured the issue remained prominent in public consciousness locally.

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Doras Luimní is concerned with the high numbers of migrant women engaged in on-street and organised prostitution in Limerick, largely controlled by pimps acting with relative impunity. We are also concerned with the lack of support services available to this group in terms of providing for their health needs as well as offering support to exit prostitution.

**Organised crime and prostitution in Limerick**

There is evidence of organised criminal gangs organising and profiting from prostitution across the country. This is evident in the extent of Operation Quest in May 2012 where 140 brothels were raided in a cross border crack down on organised prostitution on the island of Ireland, 120 of which were located in the Republic\(^{10}\), and 14 in Limerick.\(^{11}\)

In the same month another prominent prostitution-related case came before the courts when two named individuals - a well-known Dublin-based Irish business man in his 50s and a Brazilian woman in her 30s - were charged with several offences under the Criminal Law (Sexual Offences) Act, 1993 for operating a number of brothels in Limerick city and living off the earnings of prostitution. One of the charges they will be tried under is that they ‘compelled or coerced’ at least one person to be a prostitute for personal gain. They were remanded on bail and will come before the courts again in the autumn\(^{12}\).

**Response of Gardaí in Limerick to prostitution**

As an organisation we are encouraged by the work of the Gardaí in Limerick in tackling the level of organised prostitution and demand for prostitution and not focusing overly on the women being prostituted in on-street or indoor prostitution. It is important to remember that, while the women are the public face of the prostitution ‘industry’ they are, in fact, being controlled for gain by pimps and handlers, many of whom are not immediately obvious to the public eye as they operate behind the scenes. This has become obvious in the course of our weekly outreach sessions, where women are often ‘accompanied’ by men and women acting on their behalf and accepting payments on their behalf.

**‘Operation Freewheel’**

Operation Freewheel, which was established in 2010, is a multi-phase investigation devised by Limerick Garda Division in response to identified crime trends and complaints by residents and the business community about brothel and street-based prostitution in specific areas of Limerick city. The stated aims of the investigation are to identify and prosecute offenders, detect any possible links to human trafficking and other criminal enterprises, and increase awareness amongst those involved in prostitution, particularly women, of the availability of diversion services (Statement by the Minister for Justice, Equality and Defence, Alan Shatter, T.D. Debate on Independent Senators’ Private Members’ Motion on Criminalising the Purchase

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12 [http://www.irishtimes.com/newspaper/ireland/2012/0510/1224315843947.html](http://www.irishtimes.com/newspaper/ireland/2012/0510/1224315843947.html)
of Sex in Ireland to Curb Prostitution and Trafficking [18/4/2012]). As a result of the operation numerous arrests, prosecutions and convictions for a range of offences have been pursued under the 1993 legislation.

One of the most prominent developments to arise from ‘Operation Freewheel’ was the arrest of 27 men between November 11th and December 4th 2011, for attempting to solicit or importune plain-clothed female Gardaí in Limerick city centre. At a hearing of Limerick District Court on December 6th, 21 of the men who pleaded guilty were fined €470 each, which they were ordered to pay to Doras Luimní. The 6 other men who had been charged with the offences had their cases adjourned. The names, ages and addresses of the 21 men were listed in reports in several national newspapers. When these cases came up for review by the courts in March, 17 of the men who had admitted soliciting undercover Gardaí avoided conviction when their cases were struck out because they had complied with the judges order to pay a fine to Doras Luimní. At the hearing a warrant was issued for the arrest of one man who did not appear in court and had not paid the required fine. Another man who was present in court but had not paid the fine was fined €700 and formally convicted. Three of the cases were adjourned until April 26th 2012.

By mid-December 2011 Operation Freewheel had resulted in 126 people arrested, 87 people charged (including the 27 men involved in above case), 42 convictions, 31 warrants issued to search premises suspected of being brothels. In two of the searches Gardaí found 2 minors who are now in the care on the HSE.

‘Operation Quest’

Operation Quest was initially established in the Dublin Metropolitan Region in 2003 as a response to the growth of lap-dancing clubs. In 2005 it was revived to target brothel keeping, organised prostitution and the advertising of prostitution. The focus of Operation Quest is on monitoring, gathering and acting upon intelligence relating to brothel keeping, organised crime and the advertising of prostitution. It has targeted specific individuals and networks involved in the organisation of prostitution, unearthing complex prostitution rings operating in the Republic and abroad.

This operation has continued and expanded and came to public attention again in May 2012 when Gardaí and PSNI coordinated joint cross-border raids on over 130 premises in the Republic and Northern Ireland. This was a significant development because of the scale of the

13 (precedents of this include orders by judge Tom O’Donnell allocating money seized as proceeds of prostitution to be donated to the Limerick Rape Crisis Centre, including €2,000 seized from a Latvian woman working as a prostitute in Limerick city (judge order in May 2007) and €900 seized from two Latvian women in another premises judge order in February 2007).

14 Rape centre to receive €2,000 from prostitute’ by Leader Reporter 24/5/2007


investigation and the fact that it targeted a network involving prostitution, organised crime, money-laundering and trafficking.

In May 2012 Gardaí raided 14 brothels in Limerick city as part of Operation Quest. While it was reported that Gardaí encountered up to 20 prostitutes and a number of male clients during the brothel searches in Limerick in May 2012, no arrests were made.\(^1\)

Later in May 2012 a case came before the Limerick courts relating to the assault and robbery of two Spanish women who had been engaged in indoor prostitution from an apartment in the city. Three young men with Limerick addresses were charged with attacking the women – one had made an appointment with the women through an operator. The incident took place on March 4th 2011. The women in this case were unnamed while the men’s names and addresses were reported.

**Public opinion in Limerick about prostitution**

Some aspects of the media coverage and public discussion on prostitution in the Midwest region has given us cause for concern. We were surprised with the level of controversy and criticism directed at the Gardaí following the arrest of 27 men in Limerick (Operation Freewheel) who were charged with attempting to solicit or importune plainclothes female Gardaí in the city centre.\(^1\) For instance, the view that the operation would tarnish Limerick’s reputation and the accusation that the Gardaí had used inappropriate policing techniques.\(^2\)

We have observed that much discussion and coverage has tended to revolve around the traditional themes of street prostitution as a nuisance and public order issue. We have consistently tried to broaden and deepen the debate by challenging the view that prostitutes are the beginning and end of the problem and drawing attention to the demand side which had been completely ignored. We believe that without the input of Doras Luimní and our TORL partners, the human rights perspective would be largely neglected or obscured in public discussion. Our joint contributions have resulted in greater appreciation for the complexity of the issues and greater consideration of the exploitative nature of the industry.

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4. Impact of current legislation on tackling prostitution

Criminal Law (Sexual Offences) 1993, Act

The introduction of the Criminal Law (Sexual Offences) 1993, Act\(^21\) contributed immensely to the present trend in prostitution. Before the introduction of the Act, prostitution was on street, in localized areas. This changed due to the increased threat of prosecution under the Act. While “buying or selling sex” or prostitution itself is not defined or considered a crime under the 1993 Act, the following actions associated with prostitution are considered an offence: soliciting, loitering, controlling prostitution for gain, compelling or coercing someone for gain, brothel keeping, and living off the earnings of prostitution are all criminal offences. These actions will only become an offence if they are carried out in the street or in a public place.

While the act created barriers to profiting from and controlling prostitution, the stark reality is that the law criminalised prostituted women and continues to do so disproportionately to men who are mostly profiting from prostitution.

This is reflected in prostitution related offences recorded in Ireland in 2010; 65 people were convicted in total: 6 of these were men, and the remaining 59 were women. This indicates that the current laws are disproportionately criminalising women in relation to prostitution. It is also noteworthy that the age range of women is younger: all of the convicted men were over 25 years while 21 of the women convicted were aged between 18 and 24 years\(^22\).

Weaknesses in the current legislation

The 1993 Act as it stands does not tackle indoor prostitution. The act of trying to buy sex is only illegal when the importuning takes place on the street.

Though the Criminal Justice (Public Order) Act 1994 criminalises the advertising of prostitution and brothels on the Internet, it does not cover adverts placed by persons outside of the State.

Though the 1993 Act criminalises the organisation and control of prostitution, the penalty for the offence is relatively low. Those who gain from prostitution i.e pimps, managers of brothels and landlords, continue to ply their trade in spite of recent court cases where minor fines were imposed for organising and controlling prostitution. We argue that stronger penalties and prison sentences should be given to those who profit the most from the prostitution of others. To date, pimps continue to engage in brothel keeping for example one high level pimp on bail for €500 pending a further court date is still visibly operating in Limerick city\(^23\).


\(^22\) Table 13.3; p.68 [Link](http://www.cso.ie/en/media/csoie/releasespublications/documents/crimejustice/2010/gardacrimestats_2010.pdf)

\(^23\) [Link](http://www.irishtimes.com/newspaper/ireland/2012/0510/1224315843947.html)
No aspect of the current legislation discourages demand for paid sexual services. The Criminal Law (Human Trafficking) Act, 2008 provides for the prosecution of any man who knowingly engages in sex with a trafficked person. This provision is however diluted as the 2008 Act provides further that ‘in proceedings for an offence under this section it shall be a defence for the defendant to prove that he or she did not know and had no reasonable grounds for believing, that the person in respect of whom the offence was committed was a trafficked person’.24 Strict liability is not enforced, and the argument of ‘not knowing’ someone was trafficked can be used as a defence. Therefore the only article currently in Irish legislation to discourage demand for paid sexual services, is impracticable.

We are aware that local landlords make significant financial gains by renting apartments to be used as brothels with a view that they could avoid prosecution by relying on the defence provided for in the 2008 Act. Therefore, it is necessary to increase the penalties for those who rent apartments to pimps and brothel keepers. We believe the argument of ‘not knowing’ is not relevant as it should be the responsibility of the landlord to ensure that the premises being leased are not being used for prostitution-related purposes. Currently those who knowingly make available apartments for prostitution related activity are guilty on summary conviction to a fine of no more than €1000, or 6 month prison sentence, or both. This is not a sufficient deterrent. We believe strengthening the legislation to include strict liability for landlords, and tougher penalties for those who are found to be renting for prostitution related purposes, would serve to act as a deterrent.

The Act as it stands does not address the specific issues faced by migrants who are involved with prostitution. Migrants are usually faced with immigration issues that would further leave them vulnerable to exploitation and abuse.

5. Recommendations

Increased penalties

1. Increase penalties on those who control prostitution for gain. Pimps, procurers and handlers play a crucial role in the cycle of exploitation of those engaged in prostitution. Penalties should match the severity of the action. From a local perspective the organised element of prostitution, while not always immediately visible, is essential to the running of prostitution-related offences. While women are the public face of the prostitution industry, their pimps and handlers work behind the scenes ensuring that demand is met and high profits are made.

2. Make it a criminal offence to recruit women abroad for prostitution-related activity in Ireland. Therefore we would encourage the government to make it a criminal offence (within the confines of the law) to recruit women for prostitution abroad. There is anecdotal evidence that migrant women working in prostitution have been recruited in their home countries by either Irish or foreign-born pimps. While these women do have right of movement within the EU (especially those from EU accession countries who form the significant majority of those engaged in on street prostitution in Limerick) we are concerned for their welfare, how they were recruited, and under what circumstances they came to understand their future employment prospects in Ireland.

3. Create tougher penalties for landlords who knowingly rent apartments to those organising prostitution.

Shifting focus away from the supply side of prostitution

4. Criminalise the purchase of sex both indoor and on street. Demand fuels prostitution. We call for the criminalisation of the purchase of commercial sexual services. We acknowledge that this position alone will not deter an entire industry, however, it will send a clear message to the significant majority that paying for sex is a crime which is punishable by the law. We believe that this will decrease the demand for prostitution and sexual exploitation. We believe that changes in the law can bring about positive behavioural changes and attitudes. This will in turn put an end to the exploitation of people affected by prostitution. Arguably the law does play an important role in regulating the behaviour of the general public, in that it influences norms and attitudes, and creates clear undisputed boundaries around what is considered acceptable and unacceptable. Therefore the law is a normative social practice: it purports to guide human behaviour, giving rise to reasons for action.25

5. Decriminalise women engaged in prostitution. People who are involved in prostitution rarely exit unscathed. We are concerned for all women engaged in prostitution most especially for the young women working in prostitution in Limerick. The issue of young women working in prostitution is not specific to Limerick. The 2010 statistics reveal that

http://plato.stanford.edu/entries/lawphil-nature/
the age of women prosecuted under the 1993 legislation is in the age category of 18-24, while the age of men prosecuted for similar offences is above the age of 25. Also, the age of men buying sex reveals an older cohort as indicated by recent arrests in Limerick, which shows that those charged in court were aged between 23 to 67, with the average age being 42.7. Many were also in committed relationships at the time of the operation. Therefore, men buying sex are more likely to be older, middle class and in long term relationships. This is also the case nationally. 

This again reveals that women engaged in prostitution are not on an equal footing in socio-economic terms. Most of these women are vulnerable to exploitation by pimps and handlers due to their migrant status and failure to satisfy qualifying factors in the HRC process. It has been shown that men who exploit women through prostitution are mostly in committed relationships (and not single, as is often suggested).

6. Establish exit programmes for those engaged in prostitution. Funding should be made available to recognised and experienced groups to implement exit strategy programmes for those engaged in prostitution. Developmental and educational programmes should be made more widely available to provide counselling and stress management and educational programmes would be a way of improving women’s educational advantage and would help lead to new career prospects.

Develop gender specific, safe and purpose built accommodation


8. Establish women only accommodation centres. This is especially pertinent for women who have suffered gender based violence in their home countries and also for victims of trafficking who have suffered sexual violence before, during or after exploitation.


10. Develop gender specific, safe and purpose built accommodation for women exiting prostitution.

11. Remove any stipulation to HRC fulfillment for women trafficked from EEA countries.

http://www.irishtimes.com/newspaper/ireland/2012/0825/1224322964697.html
6. Conclusion

We welcome this consultation process and believe such a revision is timely given the changed nature of prostitution in Ireland. What was primarily an on street phenomenon until the 1990’s is now comprised of an on street and off street lucrative business with the majority of sex workers now working indoors. This is startling given the numbers of women still working in on street prostitution in cities and towns every night of the week.

The development of Irish laws on prostitution has always been driven by the need to protect the public and the morality of the society. Prostitution has always been seen as a ‘necessary evil’ that could be tolerated as far as it is not glaringly displayed in public. This opinion ties in with the old reference to prostitution as the “oldest profession”. This falls short in relation to the present trend in prostitution.

We have laid out evidence of the Limerick context. We have outlined how prostitution is exploitative and harmful, while the people who control the business earn substantial financial gains. Following careful consideration, we have outlined a number of recommendations, based on the facts as they present themselves to us in our work. We hope our submission, which is based on our direct work experience locally and nationally, will contribute to shaping future legislation.
Submission from: Linda Latham

I would like to make a personal submission to the Department of Justice and Equality on the important issue of the future direction of Prostitution legislation in Ireland. I am the Service Manager and Clinical Nurse of the Women’s Health Service HSE and have been working with this service since 2000.

Summary

The areas I will cover in this submission are the following:

- Background to the Women’s Health Service HSE (WHS HSE)
- The emergence of trafficking for sexual exploitation in Ireland
- The current context for the WHS
- The Dignity Project: Developing best practice
- The harm of prostitution
- Risk factors for entry into prostitution
- Child sexual exploitation in the sex industry
- General and sexual health harms
- Gay Men's Health services
- Effects of prostitution on families
- Harm caused in communities by prostitution
- Harm of the globalised sex industry and inequalities for women
- Conclusions
- Recommendations
Background to the Women’s Health Service HSE (WHS HSE)

This service was set up for women involved in prostitution in 1991. At that time heroin use was prolific in Dublin and women were prostituting themselves to get money for drugs and general living expenses. They were also used as a means of financing partners’ drug habits and many were also managed by pimps.

The Women’s health service was set up to care for the needs of these women and out of public health concerns arising from the transmission of sexually transmitted infections including HIV. The corresponding financial cost of long term treatment if such infections were not contained justified the specialist sexual health and low dose methadone service. Also it was recognised that women will more likely connect or attend specialist services where disclosure is not necessary and relationships of trust can be developed through outreach services to achieve positive outcomes for individual women, society and public finances also.

The emergence of trafficking for sexual exploitation

I started in the service as a Nurse in 2000 and took over as Service Manager in 2005. We saw our first victim of trafficking in 2002. Gradually over the following decade, the profile of service users changed dramatically from mostly Irish drug using women in prostitution to migrant women from all over the world. We also noticed trends in relation to specific nationalities for example in the early 2000’s we noted mostly eastern European women, in the mid 2000’s an increase in African women, notably also significant rises in victims of trafficking and currently a broad mix with emphasis on Latin America, Romania and lately a gradual increase in Irish/English women.

We worked with ‘Ireland En-route’, a group of statutory and NGO services, prior to the setting up of the DOJ Anti-human trafficking unit (AHTU) in 2008, to analyse and make suggestions to improve outcomes for victims of trafficking. When the AHTU was set up we were a named first agency responder for health and social care for victims of sex trafficking and my team embraced this role with vigour and experience. I developed the national Care Plan for victims of trafficking using my nursing background and clinical expertise and the experience and understanding of the prostitution industry and its impact on women and children over the years of caring for women in prostitution.
My team commenced intensive key working of women and children, many of who attended the service spontaneously and others then as direct referrals from GNIB. Some of these women then got categorised as ‘suspected victims of trafficking.’ My concerns at the time and also now is that many are not fulfilling the rigorous criteria to become a ‘suspected victim’ despite obvious disempowerment and involvement in the sex industry. I think it is not reasonable to suggest that young impoverished women with little or no finances make their way to Ireland and get organised to become ‘voluntarily’ involved in the sex industry.

In 2010 I line managed, trained and supervised two new care staff members to the team whose specific remit was to focus on care planning victims of trafficking under my supervision. Unfortunately, following a relatively brief period of time the role of the WHS as first responder was ceased and the newly named HSE Anti human trafficking team of the two care workers and one part time social worker as leader took over the whole responsibility and the eighty active VOT files at that time.

**The current context**

The Women’s health service continues as a specialist sexual health, outreach and education service for women in prostitution with a dedicated clinic for victims of trafficking. However we have noted a significant drop off in obvious VOT spontaneously attending the service despite reports from our patients in prostitution that many young women are at risk and very vulnerable but are not accessing our specialist service. Some reasons suggested by service users and staff are lack of freedom, fear of questions and lack of outreach to targeted areas. We used to access brothels in the Dublin area up until around 2007 as part of our Outreach service but this has lessened. I think as the trafficking situation became more transparent, women got more cautious about answering questions in general and we noticed a lot of coached answering and I as a manager became more wary for the staff in these situations so we visit only a few now. Another concern I have is that all officially noted suspected VOT are only identified by GNIB and then referred to the HSE. This referral process is so narrow that it may not be truly reflective of the numbers or victims in need of humanitarian support and healthcare.
**The Dignity Project: Developing best practice:**

The WHS was a partner in the Dignity Project (2009-2010) which was funded under the EU Daphne programme to develop a model of interagency working to deliver best practice approaches to addressing trafficking of women for sexual exploitation in Ireland. It was established by Dublin Employment Pact and the Immigrant Council of Ireland in response to the increasing incidence of trafficking for sexual exploitation in Ireland and an identified need to improve the coordination and integration of services for victims of trafficking.

A key objective was to review best international practice of models of care for women in prostitution and victims of trafficking and as part of this learning we visited Sweden, Glasgow, Madrid and Klaipeda in Lithuania along with NGO and statutory officials. In Sweden I was impressed by the intellectual thought and policy in relation to prostitution and sex trafficking and I found the whole visit inspirational and transformative. The attitude to buying sex off vulnerable women was met with a natural understanding of gender inequality and it was ‘dealt with twenty years ago’ as a form of violence against women that was unacceptable in a modern society.

I also took extra time out of the schedule to visit the actual services for women in prostitution. My learning from a purely service perspective formed a basis from which I could envisage a holistic health care service appropriate to the specific needs of all women involved in the sex industry. I had felt for a number of years working in the WHS that the service we offered was very limited in its harm reduction ethos in that, in order to provide appropriate care for patients we needed to wholly encompass the concepts of holistic care and properly address exit strategies with individual women. If we were to continue giving out condoms and messages of ‘how to keep safe’ whilst women were ironically in a hugely exploitative and violent industry, we were defeating the object and lacking a broader analysis. This is my fundamental argument with sex worker right groups. They are so pre-occupied with trying to make safe and improve the conditions for sex workers that I feel they lose the oversight in what is actually causing the greatest harm of all and that is the sex work, not the conditions. This is validated to me week in, week out by women actually affected by sex work. The amount of women I now see in tears and asking for help to get out is phenomenal. This is the area I recommend we invest in properly to actually make a difference and be ethical and honest about the care we give such victims.
So again it does not have to be an either or situation, whilst we offer full and comprehensive health promotion on issues of safer sex, sexual health and contraception etc. I felt we were morally and ethically obliged to support and assist women seeking to exit prostitution. This change in perspective has shaped the work we do with women and with the few other services such as Ruhama and ICI who actively work with significant amount of women in prostitution/victims of trafficking over the past number of years. This is performed sensitively and professionally over a phased period of time and gives the person the opportunity to review her options and life plan without pressure. I think it’s imperative that women are provided with assistance if they are at all in a position which affords them the possibility of exiting prostitution and empowers them to affect positive change.

The Evidence of Harm in Prostitution

In this section I am drawing on my extensive professional experience and the research I undertook for my dissertation on the Masters (MA) in Women’s studies in the School of Social Justice UCD, where I examined the connections between victims of trafficking and women in prostitution and the similar harm and consequences for them due to their involvement in prostitution, irrespective of differing entry into the sex industry. All women regardless of their causative entry into the sex industry are exposed to significant harms and exploitation. The terms 'forced' or 'unforced' do not honestly reflect the routes into prostitution which for all women are of vulnerability, significant coercion, fraud, deception and consequent vulnerabilities and exploitation.

Farley (2003) criticises public health specialists, researchers and the law for their contribution to the normalisation of the sex industry by refusing to acknowledge the actual harm of prostitution. She makes the pertinent point that the International Labour Organisation describes prostitution as the Asian ‘Sex Sector’ in spite of Governments proclaiming anti-trafficking measures are a priority at global conferences and UN forums: She states:

‘It makes no sense to oppose trafficking on the one hand and promote the ‘consensual sex sector’ or ‘commercial sex work’ on the other. One cannot exist without the other, trafficking is the marketing of prostitution’ (Farley 2003, p. 248)
The harms for both trafficked and prostituted women are evident in any one of our 1200 patient files and are unarguably traumatising for the women themselves. All women are subjected to degrading violation of their bodily integrity evident from the sexual acts they are asked or demanded to perform. Many women disclose that they are constantly asked not to use condoms by Irish men but if they need to make an income and get punters they are pressured into taking such risks exposing them to HIV, Hepatitis, Syphilis, Gonorrhoea and other sexually transmitted infections, (Kelleher et al, 2009).

In her extensive research Farley (2003) discusses the invisibility of harm in prostitution. She contends that if observers don’t see young women being forced into prostitution or trafficked at gunpoint they define her as a ‘streetwise teenager’, who likes the job, makes a lot of money and the ‘the harm is not seen’. Clients who buy sex choose to decide that women like it and that those women make the free choice to prostitute, (Burke H, 1977 in Farley 2003). What they are failing to see in the case of prostitution is that often women are so demoralised and downtrodden by economic desperation, drug addiction, social deprivation, including previous sexual assault that they are not in a position to objectively see what continued harm is being inflicted upon them. It is often first when women have managed to escape prostitution that they begin a traumatising period of reflection often assisted by therapy if they are lucky and can truly freely talk of the damage prostitution itself has caused them and their family units.

Whilst they are involved we know they dissociate in order to cope with the magnitude of compromise they require to actually perform sex with numerous men regardless of personalities, hygiene, breath, and the normal determinants that humans consider before any act of intimacy. Many of course have no option to say no or negotiate safer practices when they are controlled by violent pimps or madams or are in places of captivity.

Based on my professional experience and research I suggest that harm reduction measures are failing to address the complexities involved for women and children in prostitution and would like to illustrate the wide range of impacts and consequences of prostitution which service providers and policy makers need to be address.

**Physical harm of prostitution**
A significant study across nine countries, Canada, Columbia, Germany, Mexico, South Africa, Thailand, Turkey, United States and Zambia researching 854 people in prostitution reported that 71% had experienced physical assault and 62% had been raped; the vast majority experienced incidences of being harassed, hunted, dominated, assaulted and beaten; 89% expressed the wish to leave prostitution, (Farley et al, 2003). Interviews with 200 women in the U.S. reported that 70% of women suffered rape and 65% of women were assaulted by customers and 66% assaulted my pimps, (Silbert and Pines, 1982). Research with 222 women indicated severe levels of physical violence in street locations but also revealed that more than half of women in indoor location reported forced sex. (Raphael and Shapiro, 2002).

Vanwesenbeek (1994) found that two main factors were associated with increased violence in prostitution. The greater the poverty the greater the violence and the longer one worked in prostitution the more likely one is to experience violence. My experience of outreach on the streets of Dublin supports this claim. Heroin-addicted vulnerable women working the streets are exposed to greater risks of violence and assault by nature of the isolation and desperation for money and put at more risk by driving off with punters in cars to lonely locations. Secondly, they are prepared to negotiate taking higher health risks for extra money, such as sex without a condom and anal sex for an extra twenty euro or so depending on their ability to assess risk. Often these women are freezing and eagerly awaiting punters so they can get home. Sometimes they are under the influence of alcohol or drugs (often used as a coping mechanism to allow them to prostitute) and are incapable of protecting themselves.

**Sexual violence as inherent to prostitution**

Raymond et al (2002) say that in order to understand how violence is intrinsic to prostitution, one must understand the sex of prostitution. She argues that the sexual service is most often inclusive of violent, degrading and abusive sexual acts, sex between a buyer and several women, slashing the women with razor blades, tying women to bedposts and lashing them until they bleed, biting women’s breasts, burning them with cigarettes, cutting her arms, legs and genital areas and urinating and defecating on women. This harrowing account of sexual violence is what I think is necessary to illustrate and name prostitution for what it is, violation and abuse. I can see how even the use of the term ‘violence against women’ becomes mainstream.
and we automatically fail to imagine these gross violations of human rights, accepting them as a normal part of the prostitution contract.

**Mortality and Injury Rates**

The Canadian Commission Special Committee on pornography and prostitution in 1985 found that the death rate of women in prostitution was forty times higher than the general population. A mortality survey of 1600 women in U.S. prostitution suggested that no other population of women suffered death by murder in anywhere near the same percentage as women involved in prostitution (Potterat et al 2004). Women who work in prostitution are exposed to the same incidents of traumatic brain injury as torture survivors as a result of being beaten, hit or kicked in the head, strangled or having ones head slammed into objects such as dashboards, (Jacobs & Lacotino, 2001).

**Psychological harm of prostitution**

Most women disclose to us in the service that that they cannot prostitute unless they make a conscious decision to disconnect from their body, a process of dissociation. In her ground breaking study of trauma Judith Herman (1982) describes how dissociation occurs during extreme stress among prisoners of war, children who are being sexually assaulted and among women being battered raped or prostituted. Well-documented associated disorders include depression and other mental disorders. This can include the use of drugs or alcohol to achieve chemical dissociation and thereby psychological dissociation. A harrowing point made is that these substances can then act as anaesthetic for injuries from violence.

I recognise the anger and hatred women display towards punters. In 2000 I ran a series of art workshops with women from the Women’s Health Service. I chose to work on three panels illustrating the two most depicted images of women in Judeo-Christian art, Eve, as a medusa serpent and temptress of all evil, and the Madonna as a virginal, maternal, virtuous figure. We created these images from tiles that were to be broken with a hammer or tile clippers. The women loved the act of smashing out their anger at their punters and clearly for me demonstrated how little they actually ‘liked’ the sex work.

Post-traumatic stress disorder is common among prostituted women. Farley et al (2003) found that 68% met the criteria for a diagnosis of PTSD in the nine-country
study cited earlier. The myth that indoor prostitution is safer has not been verified by research. The study compared street, brothel and strip club prostitution in two cities in Mexico and found no differences in the incidence of physical assault, rape, and childhood sexual abuse or of the percentage of women wishing to exit prostitution. There was also no difference in the symptoms of PTSD among the three types of prostitution. Herman (1992) developed the concept of ‘complex post-traumatic stress disorder’ (CPTSD) to describe the repeated physical violence of prostitution, the constant humiliation, social indignity and contempt resulting in profound mental health consequences including:

1. Chronic suicidal preoccupation
   - self injury
   - compulsive or extremely inhibited sexuality/ anger.

2. Alterations in consciousness e.g.
   - amnesia
   - transient dissociative events
   - depersonalisation
   - reliving experiences

3. Alterations in self-perception
   - shame, guilt, self-blame
   - sense of helplessness or paralysis
   - sense of defilement or stigma

4. Alterations in perception of perpetrator
   - pre-occupation with relationship to perpetrator
   - unrealistic attribution of total power to perpetrator
   - acceptance of perpetrators belief system.

5. Alterations in relations to others
   - Isolation and withdrawal
   - Disruption to intimate relationships.
6: Alterations in sense of meaning. (Herman, 1992)

The significance of this is that the actual symptoms once recognised can be treated or a targeted approach to therapy can assist those suffering from these accumulated symptoms. It is also recognised that specific groups of people exemplify similar symptoms although the trauma was somewhat different. These include hostages, prisoners of war, concentration camp survivors and survivors of certain religious cults, those subjected to totalitarian systems in domestic and sexual life such as survivors of intimate violence, childhood physical or sexual abuse and organised sexual exploitation (Herman, 1992)

Risk factors for entry into prostitution

Barnardos (2006) identified a number of risk factors that put children and young people at risk of sexual exploitation including: disrupted family life; a history of physical and sexual abuse and disadvantage; problematic parenting; disengagement from education; going missing; exploitative relationships; drug and alcohol misuse and poor health and well-being. In particular, research supports the connection between child sexual abuse and early prostitution and global research highlights how it is not just specific to one or other part of the world depending on culture, poverty or social conditioning but a trans-global issue. In a multi country study on the health impacts of trafficking interviewing 207 girls and women interviewed in services 12% were between 15-17 when they were found; one in seven respondents (15%) reported having a forced or coerced sexual experience before the age of 15, prior to being trafficked Just over one-quarter of the women (26%) reported a forced or coerced sexual experience after the age of 15, prior to being trafficked. (Zimmerman, 2006). In one U.S. study sixty two percent of women in prostitution reported a history of physical abuse as children. 74% were sexually abused within the family and 50% had been sexually abused by someone outside the family. (Giobbe et al, 1990).

In their review of the girls and young women considered at ‘significant risk of sexual exploitation Barnardos (2006) identified 88% as having an older ‘boyfriend’/controlling adult. Traumatic sexualisation is the inappropriate conditioning of the child’s sexual responsiveness and the socialisation of the child into faulty beliefs and assumptions about sexuality which leave her vulnerable to additional sexual exploitation. (Browne & Finkelor, 1986 in Farley 2003) Traumatic
sexualisation is an essential part of the grooming process. It is my experience of working within the nursing sector of adult victims of child abuse and discussions held with colleagues, friends and service users of the various clinics I have worked in that child sexual abuse leaves young women very vulnerable to grooming by pimpping 'boyfriends'. They have learned fear and anxiety from a young age and they have already experienced shame and secrecy which can be exploited.

**Child sexual exploitation in the sex industry**

Early adolescence is frequently reported as age of entry into any type of prostitution. Research with sixty women prostituting in escort, street, strip club, phone sex and massage parlours in Seattle, USA found that all of them began prostituting between the ages of twelve and fourteen (Boyer et al, 1993 in Farley, 2003). Similarly, Silbert (1982) found that of two hundred women in prostitution, 78% began as juveniles and 68% under the age of 16.

An interesting point made by Farley is that the false distinction between adult and child prostitution merely obscures the continuity between the two. If a majority of women involved in prostitution began in adolescence we can see how using a scale of a continuum of exploitation from child to adolescent to woman makes logical sense. Similarly, Healy and O’Connor (2006) argue that the evidence demonstrates that attempting to create clear boundaries between child and adult prostitution is deeply flawed and not borne out by the reality of the lives of girls and women in the sex industry. Statistics gathered in a review of child sexual exploitation indicates the high prevalence of children in prostitution:

- Romania – 129 convictions for fewer than 18 prostitution offences in (1995)
- Poland – estimated several hundred children in prostitution (1999)
- Russia – children make up 25% of Moscow prostitutes (1999)
- Lithuania – 200 child prostitutes in Vilnius
- Latvia – 40-50% prostitutes are minors
- Estonia – 20-30% prostitutes are minors
- Poland / Germany – under 18’s live like prisoners in barracks at border crossings.
- Russia – Moscow boast a ‘nympho’ club where minors do strip tease and are tattooed with their owners mark. When they reach 14 their virginity is sold to the highest bidder, (Kelly and Regan, 2000). As the authors conclude:
'the simple fact is, where sex industries are tolerated, the sexual exploitation of children is facilitated...how can it be that at age 16 one day the girl is being exploited but by the age 17 the next day she is choosing to work in the sex industry.

Finally the British home office has also recognised the impact and significance that prostitution has on children. It has targeted its UK coordinated prostitution strategy to focus on children as a preventative measure recognising that they are vulnerable and entry into prostitution occurs frequently at child level. Such measures include:

- early education on dangers in schools, localities
- outreach support programmes for early school leavers or homeless children
- Media campaigns warning about internet grooming
- support for unaccompanied children arriving in UK
- child protection arrangements
- specialist education programmes including discussions with males and females on attitudes towards demand for sexual service
- awareness and education for professionals to catch early indicators.

Home office (2006)

**General and sexual health harms**

We diagnose and treat or refer for specialist treatment the following infections in our clinic yearly;

- Positive smear tests CIN 1-3 often associated with the Human Papiloma Virus (wart virus) – high prevalence
- Vaginal fungal infections –high prevalence
- Bacterial Vaginosis- high prevalence
- Chlamydia infection
- Hepatitis ABC-moderate prevalence
- HIV- low prevalence (1-2 per annum)
- Syphilis- moderate prevalence
- Gonorrhoea – low prevalence

We also diagnose cystitis, pain on intercourse and other less frequent STI’s.
International studies consistently show that a high prevalence of violence is inextricably linked with the high rate of HIV and other STI’s among women and children in prostitution. In Russia in the first six months of 1999, 5000 new cases of HIV were diagnosed. In Kalingrad one in three infected were women and 80% of infected women were in prostitution. Hughes (2000) suggested violence or office sexual harassment is so prevalent in Russia that women are commonly turned into office prostitutes, (Hughes, 2000 in Farley 2003).

The prevalence of Human Immunodeficiency Virus (HIV) among prostituted women is globally alarming. Homeless children are at the highest risk. Piot (1999) noted that over 50% of new Acquired Immunodeficiency Syndrome (AIDS), the end stage of HIV infection, are people less than twenty five years old. Furthermore girls are more likely to become infected at a much younger age, in part because of the higher levels of violence perpetrated against them. (Farley, 2003).

However, I would like to draw attention to our very low diagnosis on HIV and how I believe services should respond in Ireland. I noted in the department’s discussion document that a strong emphasis was being put on global HIV rates of infection with prostituted women/girls. Indeed the UNAIDS advisory committee was cited as promoting legalisation of prostitution in order to ensure adequate prevention programmes and access for vulnerable groups such as gay men, drug users and sex workers. I find this extraordinary and the categorising of all vulnerable groups together unhelpful as specific issues pertinent to each group require considered solutions and in particular with prostituted/trafficked women.

In the Irish context where full access to the Women’s Health service and safer sex/health promotion education is already available I think the argument loses its velocity. I totally agree such programmes need urgent facilitating in impoverished countries and the HIV rate in south East Asia, India, Africa is truly scandalous as young girls/women in the sex trade are indeed a highly infected group. I also think the scandal is that so many young girls are exploited in the sex trade and think that this is where the crack down should be not legalising it out of some misguided notion that conditions would then improve. It should be stringently policed and criminalised.

Awareness campaigns, like in Sweden, to educate society on the vulnerabilities and harm illustrated in this paper caused to women and raise awareness amongst men that buying sex perpetuates the exploitation of women/girls should be promoted in all countries. But to legalise a highly violent and damaging sex industry
here by endorsing the right to buy sex off these vulnerable women and girls only serves to create further demand for younger, more exotic girls/women that feeds the global trafficking and exploitation of all women and girls. We see in our service that over 95% are migrant women and therefore we are part of that global network where so many are exploited and abused.

I heard this morning on RTE 1 a journalist Lydia Catcho, the author of a newly published book addressing sexual slavery and trafficking and the reports that I well know of, when I researched my thesis, of hundreds of young girls being kidnapped and sold into the sex trade from Cancun in Mexico. She also reported from many other countries such as Burma and eastern European countries. These are the girls/women who Irish men buy sex off. We must see our actions as feeding the global sex trade and a vigorous campaign to educate men/boys is required to bring our knowledge on gender equality to a standard like in Sweden where rich men think it is not cool to buy sex off poor women just because they are not visibly enslaved.

Furthermore with a decriminalisation for women, all of the concerns for health promotion/prevention could be easily addressed and holistic health needs including assisting women in a position to exit facilitated. To me it obvious after years of working with this client group that prostitution is not a good deal for any young women or girl.

In 1998, the World Health Organisation (WHO) noted that women’s primary risk factor for HIV is violence. (Aral and Mann 1998) at the Centres for Disease Control emphasised the importance of addressing human rights issues in relation to sexually transmitted infections (STI’s). They acknowledged that most women entered prostitution as a result of poverty, rape, infertility or divorce. Therefore public health programmes have an obligation to address the social factors which contribute to STI / HIV.

This has implications for my responsibility as a health care professional and as a manager of the sexual health services. In my experience it is easy to become blinkered and concentrated on the medical fall out of prostitution as the emphasis of course in such a service is ‘diagnosis and treatment’. But effective health management must look to cause and effect which would involve a comprehensive approach to treating, supporting and caring holistically for women involved in prostitution.

Of 700 people in prostitution in seven countries, medical diagnosis included tuberculosis, diabetes, cancer, arthritis, tachycardia, malaria, asthma, anaemia,
overwhelming stress and severe mental health illnesses related to violence and or
prostitution. High instances of depression, suicidal ideations, flashback of child
abuse, anxiety and extreme tension, terror regarding pimp relationships, mood swings
and lack of self esteem were reported. More specific gynaecological illnesses such as
carcinoma of the cervix, menstrual problems and pain, reproductive complications,
post abortion infections, ovarian problems, Hepatitis B and C, STI’s such as Syphilis
and of course HIV infections were reported. Many illnesses also are attributed to
poverty but the specific illness related to repeated sexual abuse and violence are

Just this week I had a young woman in clinic that came in for medical review.
She had seen a new man and during the session he bit her on the clitoris. She was very
concerned if she had an infection or trauma to the area that needed attention. Other
acts of violence are evident on assessment here in clinic such as rape, threats with
knives, guns, violent beatings, robberies. Many of these crimes go unreported to
Gardai. In 2011 we started a pilot with Gardai from the organised crime unit. Two
Gardai attend our services monthly during clinic to be onsite and increase the
reporting of crime. Also the position of that unit and the roll out of training to all
Gardai and recruits to better understand the complexities of prostitution/sex
trafficking, I find helpful.

One Irish woman I spoke to on the phone, who one would think would have
all the support of family and the Irish system if in trouble, was so crippled with fear
from the gang threatening her that she was too afraid to continue our conversation.
Her children had been observed coming out of school and she could not flee the
agency she was working for or tell her husband. She felt forced to go back to the
brothel and work to pay off her debt whilst she still had stitches from giving birth. On
her protest she was sent punters to perform anal sex and when her sutures ruptured a
fellow punter who was a doctor was called to attend to her medically. This is the sort
of inherent violence I think ought to be considered when we talk of the ‘free choices’
that women make to sell sex and how buying sex is okay. The associated damage and
fall out is always there.

I think these words of a woman reflect the devastating damage of long term
involvement in prostitution.
‘I’ve had three broken arms, nose broken twice, I’m partially deaf in one ear... I have a small fragment of bone floating in my head that gives me migraines. I’ve had a fractured skull. My legs ain’t worth shit no more; my toes have been broken. My feet, bottom of my feet, have been burned; they’ve been whopped with a hot iron and clothes hanger...the hair on my pussy had been burned off at one time ...I have scars. I’ve been cut with a knife, beat with guns, two by fours. There hasn’t been a place on my body that hasn’t been bruised some how, some way, some big, some small’. (Giobbe, 1992 in Farley p.262)

**Gay Men's Health services**

In the course of my work in a Gay men’s health clinic, I have often met older gay men from rural Ireland who visit the city. They visit gay saunas for sex as they explain; it is not acceptable for them particularly as older gay men to seek out relationships within their own local communities. These men are at a higher health risk as often they are exposed to risk situations, like women in prostitution that are unsafe and risks of sexually transmitted infections including HIV.

However, as O'Connell Davidson (1998) points out, prostitution contrasts starkly to this kind of interaction as both parties are engaging in non-commercial promiscuous anonymous sex where both parties can withdraw without financial consequences. Also both are engaging on the basis of personal desire rather than just one and the other out of some economic necessity. Gay male lobbyists, quite wrongly I believe, conflate these issues. They often come out as pro sex worker rights and vigorously condemn feminists amongst others who suggest sex work or prostitution is an unequal power transaction and fundamentally exploitative. We need to clearly distinguish between adult consensual sex in any context including same sex relationships and the exploitative sex of prostitution.

**Effects of prostitution on families**

Prostitution like other forms of abuse does not just affect those immediately affected by it. Its fallout is particularly widespread. Firstly, immediate family members of both the prostituted woman and the punters are affected. In my experience women often say that their families don’t know to begin with or else one or two family members have suspicions and intimate partners may or may not have
known how the women are earning her money. Women often do not want to bring their children anywhere near the clinic and a significant barrier that we encountered during a pilot programme was childcare. We facilitated six months of alternative therapies for cocaine using women. Women were keen in principle to participate but often because of lack of suitable childcare arrangements had difficulty attending. Women already are under a lot of pressure because they leave children to go out and work at various times of the day and are looking for family members to care for them whilst they are away. The older children are more suspicious of what their mother is doing. Women sometimes have regular punters come to their house. This is covert and there is always a degree of trepidation about who may call to the door unexpectedly.

Often women feel so financially pressurised that they feel forced into compromised situations and they live under constant threat of exposure in their own personal sphere and within their communities. They live with the threat of violence if male partners discover what is going on, if they become pregnant by punters for example. If the partners know and benefit financially they often accompany women and watch from a distance in a car as a ‘protector’, often feeding their own drug habits from the women’s earnings. One woman was supporting two children, her partner’s drink habit and the housing bills from oral sex. She does not receive much payment for oral sex but couldn’t bring herself to do penetrative sex. The number of hours that need to be worked and risk exposure necessary to support a family of four increases this woman’s overall risk and exposure of violence or infection.

It is true that women’s economic and social situations differ. Some women are studying in Ireland, usually from continents such as Latin America, Asia and central Europe and have large university fees to pay. One woman recently broke down with me when I was trying to get her to understand how the risk of infection was much higher for her if she continued not to use protection. She was a middle class European woman studying law. As part of a health pre test consultation I asked her ‘if I tell you in two weeks you are HIV positive would you have anyone to turn to?’ Her tears fell as I could see the realisation of the risk was becoming real for her. She explained her mother would kill her! Then she also said she would have no punters and no money if she did not take the risk. I had no answer regarding the financial crisis for her, so as often my dilemma is; how can I just advise them to wear condoms, get out of prostitution when I can offer no other solutions to these women.
who sit before me in sometimes severe crisis. I have to be aware it is from a place of privilege that I give information.

For male punters the familial fall out can also be significant. However, often families are unaware of the husband’s or father’s activities as men can take an hour out over lunch and visit a parlour. The emotional, sexual and health consequences of this behaviour are unknown and uncontrolled by partners, wives and families. I believe the approach in Sweden insists that men take responsibility for their behaviour and the exploitation of both women in prostitution and the impacts on their families. Interestingly in Sweden the chief of police and high court judge advised us that from their experience the deterrents for purchasing sex lay with the potential of public exposure and family fall out rather than on financial fines following being charged.

_Harm caused in communities by prostitution_

The British Home office has identified problematic community impact as a result of prostitution and has included communities in its target for strategic measures to combat prostitution. A local resident said:

_‘The prostitutes were attracting kerb –crawlers, drug dealers, burglars and street robbers to our area, some of whom were violent. Our area became totally unsafe’_ (Home Office, 2004 p6)

As the demographic profile of many women involved in street based prostitution includes socio- economic disadvantage their first response is to tackle deprivation. The government’s neighbourhood renewal strategy will tackle issues such as; poverty, poor housing, poor access to adequate healthcare and education. It will also tackle anti-social behaviours such as crime, drugs and environmental declines recognising that people living in surrounding effected buy deprivation and are more vulnerable to involvement in prostitution. Initiatives such as ‘Sure Start,’ a new network of children’s centres, are focussing on early learning, health and family services in communities where a higher level of poverty exists.

In localities where street based prostitution occurs a number of problems arise. Kerb crawlers cause women who are not in prostitution to feel vulnerable and contribute to a slowing up of traffic in the area. Verbal abuse and threats can occur between working women and local residents. Sex takes place in public areas, car
parks, playgrounds and private gardens. The litter nuisance and danger to kids result from used condoms, needles and other drug paraphernalia. Drug dealers can also target these areas. So on the whole prices of property decrease and insurance premiums increase, localities become undesirable, unpleasant and unsafe and families and businesses avoid moving in to the area thus contributing to a spiral of decline and areas are more open for crime such as theft and assault and general public order offences. Community engagement seems to be crucial in turning around problems zones and police and community response teams have had positive results in many cases.

On 10th of September 2003 the home office did a day count on the numbers of anti-social reports in England and Wales. 1,099 reports relating to prostitution were recorded covering kerb crawling, soliciting, prostitutes cards in telephone boxes, discarded condoms and inappropriate sexual acts. This amounts to approximately 400,000 reports per annum which demonstrated the scale of the problem for communities. (Home Office, 2004).

In the WHS outreach experience; we have also witnessed local resistance to prostitution in specific areas. The local residents understandably are unhappy and are out on patrol with placards. Unfortunately the women prostituting often are the victims of such anger and they are on foot. The male demand for sex is where the emphasis ought to be placed but punters are in cars and avoid areas of disturbance. Gardai often need to respond to such clashes and inevitably the women are taken to the Garda stations. This of course is why we see larger proportions of women cautioned, arrested and fined than male purchasers of sex. Women who do not turn up for court or who cannot afford the fines end up doing custodial sentences and the cycle of deterioration continues for them and families.

**Harm of the globalised sex industry and inequalities for women**

It is my reflections on the globalised sex industry that has convinced me of the need to tackle all forms of prostitution and reject it as a legitimate occupation for women. The connection as I mentioned earlier from one continent to another of women and children being exploited, abused, violated, raped and trafficked re-enforces for me how we must view prostitution in the context of the global village. Globalisation and the growing inequalities apparent in its wake - mass migration
from poverty, disempowerment of small landholders particularly women from farming, or business, splitting of family and community structures, national dependencies on large western multinationals, dominance of political dictatorships who keep in with western business and the selling of children particularly young girls to feed the rest of the family – phenomena that may seem quite unbelievable, unethical and immoral is what I think we ought to consider when determining the future of prostitution legislation and its impacts on humanity in Ireland.

Trafficking in women and children is a global issue and affects many continents. Annually it is estimated that between 600,000 and 800,000 persons are trafficked across borders each year. 80% are women and girls and up to 50% are minors (U.S. Department of state, 2005). The UN estimates that 80% of all victims are trafficked for purposes of sexual exploitation. (Kangaspunta, 2003)

Girls from impoverished regions of the world supply the sex industries of capital cities including Dublin. These women and girls are set upon journeys of violence, infections causing death by AIDS and other non treated illnesses, exploitation and human rights abuses that we find unthinkable, (Barry, 1995). They journey and are sold all over the globe, whilst western men legally buy sex in red light zones in Amsterdam and German cities convincing themselves it’s a free choice “the girls are smiling at us, so they want it”. What girl would want that? It is indeed paradoxical.

**Conclusions**

As a destination country, Ireland now has a sizable sex market, lead by Irish men's demand but serviced by migrant impoverished women, has a moral and ethical obligation to protect women and children from exploitation within our country. Most governments agree trafficking is a total abuse whilst addressing the damage of prostitution appears to be another question. I suggest that once the connections to abusive environments within prostitution are considered and analysed, we can demonstrate how damaging this can be for a significant proportion of women and girls involved in prostitution and perhaps re-examine our attitude to the commercial sex industry.

I am conscious that it is only with support from policy makers and governmental departments that a comprehensive and practical plan to support women in exiting prostitution can be achieved. But I feel it is correct to at least make positive demands for services such as housing, employment and training that will effect the
‘choices’ that women can make. I acknowledge too that I cannot fully understand what it may be like to experience situations that I do not find myself in, and it is with the utmost respect for the diversity and complexity of women’s individuality that I act in the hope that it may improve or positively affect the circumstances of some of the women who use our services, and who with trust share their stories and aspects of their lives with us.

**Recommendations**

- Adopt the Swedish model of legislation, criminalising the purchasers of sex and decriminalising the women involved in prostitution
- Ensure specialist services as WHS continues and expands to southern cities such as Limerick, Waterford and Galway as demand is apparent to us here in clinic but under one umbrella organisation to ensure good practice and learn from previous endeavours.
- Statutory education/awareness programmes on prostitution/sexual exploitation (similar to trafficking measures)

**Specific recommendation regarding Exit Routes:**

Develop a statutory co-ordinated Routes Out of prostitution strategy in conjunction with expertise from statutory and NGO agencies such as WHS, Dept social welfare, FAS, Ruhama, Immigrant council, similar to measures for victims of trafficking. (I strongly suggested at AHTU and was disappointed in 2008 when measures to protect and assist VOT could not be expanded to assist women in prostitution with similar circumstances but learning from those specific benefits or experience may be useful here). This should then include:

- Direct access to training and employment schemes on referral from WHS for women seeking to exit and expand criteria of FAS programmes available to VOT to include women affected by prostitution
- Financial assistance to women wishing to exit for a period of time (Often women have just no other income and are totally reliant on the earnings of prostitution)
- Short/long term assisted housing or access to social housing
• Medical cards where women have no income
• Legal advice and wavering of some strict immigration/visa measures e.g. 19 hours work visa for students, which would enable women to exit.
• Direct access to specific in-house drug rehabilitation programmes for women and children, short and long term that is linked to future housing possibilities.
• Provision of short and long term therapy / counselling by experts experienced in dealing with gender based harm / trauma.
• Additional resources and staff to provide expanded services such as counselling/career guidance/development
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Clinic Profile for 2011

ATTENDANCES:

Total no. of women accessing WHS  297
- New  135
- New international  123
- Return  162

No. of women identified as drug user  14
No. of women suspected VOT  23

SERVICES ACCESSED:
- Outreach  918
- Medical  604

Location where prostitution occurred:
- Indoors  279
- Outdoors  20

NATIONALITY:
- Irish  32
- UK  8
  1. English  5
  2. Scottish  1
  3. Welsh  1
  4. Nth Ireland  1
- International  257
  Brazilian  134
  Colombian  3
  Argentina  4
  Peru  1
  Ecuador  1
  South American  1
  Mexico  1
  Spanish  22
  Italian  4
  Portuguese  7
  Greek  1
  Egypt  1
  Thailand  1
- **International Women**

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**STREETWORK 2011**

**Profile of Women**

- Total no. of outreach contacts made: 282
- No. of women who engaged: 105
  - New: 17
  - Known: 46
  - Unsure: 42
Nationality of women:

- Irish 51
- English 7
- Nigerian 1
- Pilipino 1
- South African 2
- Egyptian 1

Of the 63 women:

- Drug using 43
- In Treatment 27
- Homeless 11

No. of reported Assaults 4

No. of outreach sessions 124
No. of observation sessions 5

Clinic Profile of Trafficked Clients 2011

ATTENDANCES:

Total no. of women attending WHS 23

- New 14
- Return 9

SERVICES ACCESSED:

No. of women accessing WHP 40
- Medical 37
- Outreach 26

NATIONALITY:

- International 23

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Introduction.

This is a reference report based on my presentation to the Conference on the Future Direction of Prostitution Legislation, Saturday October 13th 2012, organised by the Department of Justice and Equality, Ireland.

The report deals with the background and the establishment of the Gay Men’s Health Service (GMHS), the trends in Human Immunodeficiency Virus (HIV) and sexually transmitted infections (STIs), the formulation in relation to the work, research and other reports in relation to male sex work and ends with observations and implications for public health.

Website references are embedded in this report to help with immediate access.

Men who have sex with men (MSM) and commercial sex are both taboo subjects and very seldom talked about so it is welcomed that the conference highlighted the issue. This short reference report is key to understanding these issues. Initially though I would like to begin by presenting an executive summary based on the findings from two recent studies entitled Real Lives and EMIS.

Mick Quinlan
Executive Summary

There is little known about men buying sex from women in Ireland except for the ISSHR study (2006) and studies carried out by the Women’s Health Project and the report from the National Advisory Committee on Drugs.

There are three studies highlighting MSM buying or selling sex from other men, the MP Project 1997, Real Lives 2006 and European MSM Internet Survey (EMIS) 2010.

GMHS was the main lead relating to MSM and commercial sex and later along with Gay Health Network (GHN), the Rainbow Project and Sigma Research, the studies among MSM in Ireland, related to sex and sexual health. Therefore it is worth highlighting here the latest findings on MSM and sex work from the more recent studies:

In Ireland the 2004 Real Lives survey (n =868) and 2010 EMIS survey (n=2610) show that between 9% and 11% of MSM were involved in commercial sex work, buying or selling sex. In Real Lives, 51 (6.5%) MSM had paid for sex from another man while 50 (6%) had been paid for sex with another man within the last year. In the EMIS study 112 (4.7%) MSM had paid for sex (PS)* and 97 (4.1%) had been paid for sex (BP) (Quinlan, McCartney & Donlon forthcoming). This number compares to the 105 men who had paid for sex from women within the previous five years in the groundbreaking Irish Study Sexual Health and Relationships in 2006 (ISSHR).

The common findings of these two studies (EMIS and Real Lives) are that MSM in Ireland who buy or sell sex:

- lived in all parts of Ireland with nearly half living in Dublin, up to a quarter were not born on the island of Ireland, just over two thirds were only attracted to men, and three quarters identified as gay.
- Three quarters were not in a steady relationship, while 6% of those Been Paid for Sex (BP) and 8% who Paid for Sex (PS) were in a relationship with a women.
- The locations, where meeting for sex: websites, saunas, and bars were the highest while public places were lower.
- The number living with HIV was similar in both groups.
- Nine in ten men in both group had sex with a none-steady male partner within previous year.

Notably, the main EMIS report showed that in 2010 across Europe: of the 181,000 MSM respondents, 12,670 (7%) bought sex from another man while 9,050 (5%) sold sex to another man within the previous 12 months to the study. 4% had paid men for sex while abroad and 2% received payment while abroad (Schmidt et al forthcoming).

In Ireland the 2004 Real Lives survey (n =868) and 2010 EMIS survey (n=2610) show that between 9% and 11% of MSM were involved in commercial sex work, buying or selling sex. In Real Lives, 51 (6.5%) MSM had paid for sex from another man while 50 (6%) had been paid for sex with another man within the last year. In the EMIS study 112 (4.7%) MSM had paid for sex (PS)* and 97 (4.1%) had been paid for sex (BP) (Quinlan, McCartney & Donlon forthcoming). This number compares to the 105 men who had paid for sex from women within the previous five years in the groundbreaking Irish Study Sexual Health and Relationships in 2006 (ISSHR).

The common findings of these two studies (EMIS and Real Lives) are that MSM in Ireland who buy or sell sex:

- lived in all parts of Ireland with nearly half living in Dublin, up to a quarter were not born on the island of Ireland, just over two thirds were only attracted to men, and three quarters identified as gay.
- Three quarters were not in a steady relationship, while 6% of those Been Paid for Sex (BP) and 8% who Paid for Sex (PS) were in a relationship with a women.
- The locations, where meeting for sex: websites, saunas, and bars were the highest while public places were lower.
- The number living with HIV was similar in both groups.
- Nine in ten men in both group had sex with a none-steady male partner within previous year.

* PS=Paid for Sex and BP =Been paid for sex
In EMIS Ireland 2010 (see chapter 4.5 below) some significant differences emerged regarding men who buy or sell sex:

72% of those receiving payment for sex were aged under 30 compared to 19% paying for sex.

Not tested for HIV: 44% BP compared to 28% PS.

Not tested for STIs: 50% BP compared to 38% PS.

*Significantly MSM been paid for sex were less likely to access services for a variety of reasons including stigma.*

In both groups, for those who had tested for HIV or STIs over 60% had done so within the previous 12 months.

Unprotected anal sex within previous 12 months was nearly similar with 60% BP and 54% PS never, seldom or not using condoms (in both groups this was higher with a steady male partner).

*Not using condoms among none steady male partners was significantly higher among being paid for sex 31% compared to 15% for being paid for sex.*

MSM being paid for sex had more opportunity to talk about the sex they had, 70% compared to 54% BP (perhaps because of where they tested). Though in both groups, when giving the opportunity, nearly nine in ten men had talked about the sex they had with another man. Fewer if any men use street or cruising areas compared to the 1997 study. They are more independent, there is very little if any pimping among male sex workers. Very few inject drugs, 4% of BP and 2% PS had done so within the previous year.

These Real Lives and EMIS reports highlight that MSM buying or selling sex are a very significant proportion of the gay, bisexual and MSM community in Ireland and use the same social venues and health services. Indeed they are a very important part of the targeted population that is vital to reach for HIV and sexual health awareness and prevention.

The presentation following will help provide an understanding of the complex issue in relation to commercial sex work and MSM, and especially highlight that this is an important part of the Irish population which up to now has not being talk about. Another group added to this are disabled people and commercial sex (Chapter 8). The final Chapter 9 below *The Law and Health Service Provider Consequences touches on the effect of stigma and criminalisation in relation to access to services for sex workers and their clients* *(WHO 2012)*
1. The Introduction to the Presentation

The 4th phase of the www.Man2Man.ie joint HSE and Gay Health Network initiative, promotes condom use between MSM. This poster shows how far we have come since both of these were criminalised in Ireland. Both the decriminalising of homosexual acts and the wider availability of condoms came about in 1993. Directly as a result of campaigning and European courts rulings but also because of the health implications in relation to HIV and the call from the government’s National AIDS Strategy Committee (NASC 1992) for its repeal.

2. GAY MEN’S HEALTH SERVICE (GMHS)

In 1989 the Eastern Health Board (EHB) established the AIDS Resource Centre, Baggot St Clinic providing needle exchange and outreach work for IV drug users and free HIV testing for the general population. Then in 1991 the Women’s Health Project (WHP). All of which were a response to the health implication issues regarding HIV (Positive Proof The Emergence of HIV/AIDS and the Irish Response M Duffy 1993 Sociological Association of Ireland).

http://catalogue.nli.ie/Record/vtls000013339/Details

Earlier in 1985 Gay Health Action (GHA) initiated the response to AIDS and HIV in Ireland among homosexual and bisexual men. GHA produced and disseminated information on transmission and also challenged the perception of “AIDS as Gay Disease”. GHA helped found the Lesbian Health Action (LHA), Cairde and AIDS Action Alliance (IBID).

In 1992 the Gay Men’s Health Service (formerly GMHP) was established (a year before decriminalisation) by the Easter Health Board (EHB) and it was also based at Baggot St Clinic. The AIDS Resource Centre had been renamed the AIDS/Drugs service, which again was to become the Addiction Service.

GMHS remains the only statutory service for men who have sex with men. GMHS provides an STI clinic, counselling and support and education and prevention among MSM it also acts as a reference centre for research and training on issues concerning MSM and LGBT.

http://www.hse.ie/eng/services/Find_a_Service/Sexualhealth/Gay_Men's_Health_Service

Over the years GMHS has helped establish Gay Health Network (GHN), Outhouse LGBT Community Centre, Belongto Youth Service and others. GMHS is part of the National AIDS Strategy Committee (NASC) and presently on the service-working group for the National Sexual Health Strategy. In 2009, GMHS was part of the committee that produced the important mapping document, ‘LGBT Health': Towards meeting the Health Care Needs of Lesbian, Gay, Bisexual and Transgender People (HSE 2009). This publication outlines the issues and health implications for LGBT people and also the affects on mental and physical being due to discrimination, violence and marginalisation due to homophobia.

http://www.hse.ie/eng/services/Publications/topics/Sexual/LGBT%20health.html

GMHS runs a sexual health clinic at Baggot St Hospital two evening per week and is very busy, as outlined in the annual report 2011. Up to 9,000 MSM have registered at GMHS since 1997. 15% of clients reside outside Dublin City and County. 39% were born in 52 countries other than on the island of Ireland. In 2011 there were 5,823 attendances at the clinics. Of the 783 first-time attendees, 37% were aged 24 and younger.

In 2011 461 men were treated for an STI, Gonorrhoea or Chlamydia of these 37% were new attendees. 46 men were treated for syphilis (93% were new attendees). 38 men were diagnosed with HIV (53% were new attendees)


3. TRENDS IN HIV AND STIS AMONG MSM

In Ireland, HIV and other STI infections particularly syphilis and gonohorrea are in high numbers among MSM. For instance in 2010 and 2011 and early 2012 over 40% of all new HIV infections were among MSM (http://www.hpsc.ie/hpsc/AZ/HIVSTIs/HIVandAIDS/SurveillanceReports/File.13068.en.pdf). The Official figures from the Health Protection Surveillance Centre (HPSC) show the continuing upward trend of HIV infection among MSM since 2002.
This trend along with the government's National AIDS Strategy Report 2002 and the Education and Prevention Plan 2008-2012 and review, highlighted the need for actions with and for MSM.

Since 1992, GMHS along with GHN members has been involved in promoting the main research on MSM in Ireland on the health needs in relation to HIV prevention and support. Vital Statistics 2000, Real Lives 1, 2 and 3 and EMIS 2010 all of which are available at Vital Statistics 2000, Real Lives 1, 2 and 3 and EMIS 2010 all of which are available at http://www.doh.ie/publications/aids_strategy_2000.html and the Education and Prevention Plan 2008-2012 and review, highlighted the need for actions with and for MSM.

In December 2011, the HSE and GHN with support from the Junior Minister for Health, Rosin Shortall and the Lord Mayor of Dublin launched the National HIV prevention and sexual health awareness programme among MSM. This man2man.ie campaign in four phases is particularly aimed at younger MSM. Other aspects on the implication and health needs of MSM is outlined in the two Man2Man Reports; 1 “Our Community” and 2 “Living with HIV”

3. COMMERCIAL SEX WORK: FROM MALE PROSTITUTION TO SEX WORKERS.

GMHS involvement in the area of male sex work began as part of its outreach work and contact with various agencies and groups. As with other outreach workers in the AIDS/Drugs service, GMHS workers acted as advocates for service users and in this case male sex workers. Also the NASC reports 1992, 2000 and 2008 highlighted the issue concerning sex work and the need for HIV prevention work in this area. Outlined below is GMHS involvement in and establishment of various networks at home and abroad and the various pioneer reports and research highlighting the issue of MSM and male commercial sex work.

3.1 NETWORKS AND GROUPS

In 1997 GMHP joined the European Male Prostitution Network (ENMP) “The AMOC/DHV Foundation launched the European Network Male Prostitution (ENMP), with partners from 19 different countries, financed by the European Commission and the Dutch Aids Fund. The network consisted of eighteen different agencies, engaged in the fields of HIV and STI prevention with male sex workers”

Over the years ENMP held many conferences, training and sharing resources and produced the Manual on establishing services for male sex workers.

It was through this network and along with others in Ireland that GMHS established the Irish Network Male Prostitution (INMP) in 1998. The INMP held
a number of forums (all in Dr Steeven’s Hospital) and eventually produced the report “Such a Taboo” in 2001. Since its inception the INMP played an important role in highlighting many of the issues surrounding and affecting males in prostitution, by way of, training, discussion forums and reports. Upwards of one hundred participants attended each forum, which offered a series of workshops, presentations and testimonials delivered by various facilitators, including men involved in sex work themselves. These forums allowed for workers to share concerns, ideas and experiences around working with this target group and many identified similar barriers in existence around advancing development such as homophobia, heterosexism, fear, and the underground nature of male sex work. INMP ceased to exist around 2003.


In 2009 a group of people came together in Ireland and from this Sex Workers Alliance Ireland (SWAI) was founded. SWAI has presented at the various All Ireland Gay Health Forums organised by the GMHS, GHN with support from the DOH and Social Inclusion HSE. [http://www.hse.ie/eng/services/Find_a_Service/Sexualhealth/Gay_Men's_Health_Service/Gay_Health_Fora](http://www.hse.ie/eng/services/Find_a_Service/Sexualhealth/Gay_Men's_Health_Service/Gay_Health_Fora)

### 3.2 MSM Sex Work and Reports

**Below is listed various reports produced in Ireland or abroad where GMHS or partners have presented.**

**The MP Project Male Prostitution, (O'Conner et al, GMHP Europap 1997).** This was the first ever study among MSM in prostitution and the report was widely received. It is discussed in more detail in the research section below.

**Male Prostitution, What is the best approach?** A strategy document for working with males in prostitution in the eastern Health Board & Compilation of National and International Reports, was published by GMHP, EHB 1999. This along with the findings from the two forums led to establishing a working group who produced the Such A Taboo report in 2001. (Quinlan M, GMHP ECAHB 1999) available from gmhsadmin@hse.ie
‘Such A Taboo’, (INMP ECAHB 2001) an analysis of service need and service provision for males in Prostitution in the Eastern Region Health Authority Area. (INMP and ECAHB). The report recommended the development of specific services targeting men in prostitution, most crucially a drop-in centre where men could meet their peer workers and access services. The report also advocated a multi-disciplinary/agency approach to addressing such needs. This report can be viewed in its entirety at http://www.hse.ie/eng/services/Find_a_Service/Sexualhealth/Gay_Men's_Health_Service/Research_Reports/Such_a_Taboo_service_needs_for_males_in_prostitution_Ireland_2001.pdf

Hidden Stories, Male Prostitution in Sweden and Northern Europe (Erikson et all 2004). GMHP along with others presented at this conference in Stockholm in 2003. Organised by ENMP and the Swedish LGBT organisation RFSL, the sexual rights organisation RFSU a comprehensive report was published in 2004. This conference gave an opportunity to look at the issues involved in legislation and barriers to service provision. Basically for Irish participants it was felt we were coming from a more open and developing society. http://www.rfsl.se/public/Hidden%20Stories.pdf


Drug Use, Sex Work and the Risk Environment in Dublin (Dr G Cox and Dr T Whitaker NACD 2009). Action 98 of the National Drugs Strategy 2001-2008 required the NACD to carry out research on drug misuse among at-risk groups, including prostitutes/sex workers. In response, the NACD undertook this study to explore female and male problematic drug-using sex workers’ lived experience of risk, and how the risk environment can mediate the individual's capacity to reduce the risk of harm. The concept of the risk environment was broadly defined as comprising risk factors that are external to the individual. Thus, the ‘environment’ encompasses not only the physical space within which drug-using sex workers live and work, but also the social, economic and policy environment. http://www.nacd.ie/index.php/publications/61-drug-use-sex-work-and-the-risk-environment-in-dublin.html

4. RESEARCH ON MEN’S EXPERIENCE OF COMMERCIAL SEX.

Research on men buying sex is really unknown in Ireland. The first important study was the The Irish Study of Sexual Health and Relationships (ISSHR 2006) http://www.dohc.ie/publications/Irish_study_of_sexual_health_and_relationships.html and the chapter on men’s experience of commercial sex with women.

Of the 7,441 respondents contacted by telephone 3,188 were male and the findings showed; 6.4% men reported ever having paid for sex with women 3.3% had done so within the last five years of the study. Men aged aged 55-64 are most
likely to have ever paid for sex but men aged 25-35 are most likely to have done so in the last five years. Single men, higher professional occupations

Men who ever had a same sex partner* are 80% more likely than other men to have paid a women for sex. Men with higher numbers of female partners are more likely to pay for sex. 44% of men who paid did so with once. 83% always used condom 7% used them inconsistently and 11% never used them. (Layte et all 2006)

Though attitudes to homosexuality is changing in Ireland in ISSHR still only 47% men believed that homosexual sex is “never wrong” this was 57% for under 25s (Ibid)

*the number of MSM respondents overall to the survey was small, perhaps because it was by telephone. From the sample n=3,188 only 86 men (2.7%) identified as homosexual or bisexual, 5.3% as having any homosexual attraction and 7% had had a homosexual experience.

4.1 RESEARCH ON MSM EXPERIENCE OF COMMERCIAL SEX

There are three studies on MSM and commercial sex; one on MSM selling sex and two of MSM buying and selling sex. One study was carried out in 1997 (The MP Project) the second Real Lives: Findings from the All Ireland Gay Men’s Sex Surveys 2003 and 2004.

The third Study is the more recent European MSM Internet Survey (EMIS 2010) the largest ever survey among men who have sex with men(MSM) in the world. Nearly 180,000 men in 37 countries responded and the main European report is expected later in 2012. Meanwhile various community and country reports are available at www.emis-project.eu The response to EMIS in Ireland saw the largest ever number of 2,654 and already two reports have been published; Our Community and Living with HIV, two other reports will be forthcoming.

While the first two are published, the findings from EMIS on male commercial sex work presented here is from the unpublished data and this is the first airing of them in Ireland. I wish to thank Daniel McCartney (GHN) for his help in this.

Below is the findings from the studies

4.2 The MP Project Male Prostitution, (O’Conner et al, GMHP Europap 1997).

Respondents were recruited at locations such as Quays, Park and agency and advertisements in the Gay Community News (GCN). As a result 26 males were interviewed by GMHP outreach worker and counsellor. The respondents identified as Gay: 59%, Bisexual: 22% and Heterosexual: 19%. Nearly all of the identified heterosexual men used heroin on a regular basis.

Few of the male sex workers surveyed used telephones or apartments to carry out their work, those who did tended to be more middle class, educated, and
confident about their sexuality. Few of the men reported sex with women for money though some said it happened. Tellingly, three of the men surveyed were of non-national origin. This was the projects’ first recorded encounter with migrant male sex workers.

Customers: According to the male sex workers interviewed for the report, the majority of their customers were viewed as being mostly married and middle class. They range in age from thirty to sixty and most were identified as gay by participants, although a large proportion were also felt to be heterosexual or bisexual. Seven of the men interviewed stated that they had experienced violence from their customers. Apart from information from male sex workers themselves, little is known about the men who buy sex. While GMHP has regular contact with those engaged in selling sex, few men have disclosed that they buy sex. Again, this reiterates the taboo nature of male prostitution. Copies of this report on pdf from gmhsadmin@hse.ie

4.3 Real Lives: Findings from the All Ireland Gay Men’s Sex Surveys 2003 and 2004. (Devine et al 2006)


Of the 868 respondents, 11% had participated in paid sex in the last year, 5.5% paid for with another male, 1.6% had both paid for and been paid for sex, while 4.3% had been paid for sex.

51 men 6.5% had paid for sex (slightly more men in Dublin having done so (7.6%). 65% had paid for sex more than once. Older men were more likely to have paid for sex in the previous year than younger men; 16% of those aged over 50 aged compared to 3% for those aged less than 20. Whereas been paid for sex was 15.8% for those aged 20 and younger and 4.6% for those aged over 50.

Of the 51 men, one half used only one source to locate men to pay for sex; over 20 used gay websites (personal/profiles/chat) or escort /masseur websites, followed by between 16 to 9 men using gay press, gay bars and clubs, escort agencies/brothels, saunas and public spaces (9 men), there were over ten other places. Saunas were identified as a place by one third of the men living outside Dublin. (Been paid for sex accounted for gay websites, bars and clubs, public spaces, telephone chat lines, gay press, saunas and personal recommendations).

There was no further breakdown in this report.

4.4 The European MSM Internet Survey 2010 (EMIS)

Overall the unpublished data for the main survey of 181,000 respondents shows that in the previous year to the study 12,670 (7%) MSM across Europe bought sex while 9,050 (5%) MSM sold sex. 4% had paid men for sex while abroad and 2% received payment while abroad. “Men paying for sex were older, hidden, and more had female partners. Having been paid for sex doesn’t mean they are sex workers as the vast majority was once or opportunistic” (forthcoming).
4.5 EMIS 2010: Ireland

Of the 2,610 respondents for the Ireland part of the survey 112 (4.7%) men had paid another man to have sex, while 97 (4.1%) received payment to have sex. The following show the behaviour according to each group.

4.5.1 EMIS Ireland Been Paid for Sex n.97

86% resided in the Republic of Ireland with 14% in Northern Ireland.

46% resided in Dublin City and County, 14% in HSE Mid-Leinster and HSE North East, 21% in HSE South and 8% HSE West. Of the 14 men who lived in the North of Ireland 57% lived in Belfast. A quarter (25%) of the sample were born in 12 countries other than island of Ireland.

A fifth (21%) were aged 20 and less, while 51% in their 20s, 15% in their 30s, 10% in their 40s, those aged over 50 accounted for 3%.

68% were only attracted to men. 72% identified as gay and 18% as bisexual, 3% as hetero/straight while 6% didn’t use any term. 25% of the men were in a steady relationship with another man while 8% were in a steady relationship with a woman.

Of the men in a steady relationship with another man 63% knew they had the same HIV status, 4% had a different HIV status while 33% of the men didn’t know the status of their partner.

44% had never tested for HIV while 50% had tested negative and 6% had tested positive for HIV. 74% of those tested did so within the previous 12 months.

11% had ever been diagnosed with syphilis, (one fifth of these in the previous 12 months) 50% had tested for other STIs (69% within the previous 12 months). Of these 7 men were diagnosed with Gonorrhoea, 11 with Chlamydia, 16 with Genital Warts, 3 with Herpes and 2 with Hepatitis C and one had cleared it.

Of the 97 men in the sample 26% had never received a vaccine for Hepatitis B.

23% of the sample had never had unprotected anal intercourse 60% said they had within the previous 12 months.

52% had sex with a steady male partner while 92% had sex with a non-steady male partner within previous 12 months.

Nine in ten men had anal sex with a non-steady male partner within the last 12 months and of these 32% always and 37% mostly used condoms with 31% never, seldom or sometimes using them.

All of the men with a steady male partner had anal sex within previous year and of these 18% always and 18% mostly used condoms with 64% never, seldom or sometimes.

Not using condoms was higher among steady partners.

4% had ever injected drugs within previous twelve months.
4.5.2 EMIS Ireland Paying for Sex n.112

90% resided in the Republic of Ireland with 10% in Northern Ireland.

46% men resided in Dublin City and County, 14% in HSE Mid-Leinster and HSE North East, 13% in HSE South and 9% HSE West. Of the 11 men who lived in the North of Ireland 64% lived in Belfast. 15% of the men were born in 13 countries other than island of Ireland.

2% were aged 20 and 20% were in their 20s, 30% in their 30s and 34% in their 40s those aged over 50 accounted for 14% of the men paying for sex.

70% of the men were only attracted to other men while 76% identified as gay and 13% as bisexual, 4% hetero/straight, 8% didn’t use a term. 29% of the men were in a steady relationship with another man while 6% were in a steady relationship with a woman. Of the men in a steady relationship with another man 77% had the same HIV status, 7% had a different HIV status while 16% of the men didn't know.

28% had never tested for HIV while 66% had tested negative and 6% men tested HIV positive. Of those tested, 58% had done so within the previous 12 months.

16% had ever been diagnosed with syphilis (15% of these within previous year). 62% of the men had tested for other STIs (60% of these within last 12 months).

*Of these 18 men were diagnosed with Gonorrhoea, 8 with Chlamydia, 18 with Genital Warts, 5 with Herpes and nil with Hepatitis C.*

Of the 112 men 24% had never received a vaccine for Hepatitis B.

16% of the sample had never had unprotected anal intercourse (UAI) while 54% said they had UAI within the previous 12 months.

45% had sex with a steady male partner and 93% had sex with a non-steady male partner within previous year.

Of those with non-steady male partners 88% had anal sex within the last 12 months and of these 56% always and 29% mostly used condoms with 15% never, seldom or sometimes using them.

All of those with a steady male partner had anal sex within previous year and of these 12% always and 24% mostly used condoms with 64% never, seldom or sometimes.

Not using condoms for anal sex was higher among steady partners.

Less than 2% had injected drugs within previous year.
5. SERVICE ISSUES AND MSM INVOLVED IN PAYMENT FOR SEX.

In both buying and selling sex the respondents were asked their experience when testing for HIV.

*Had you an opportunity to talk about the sex you have?* 54% of those paying for sex had compared to 70% for those being paid for sex had. The lower number for having an opportunity was associated with where the HIV test was acquired.

When giving the opportunity and environment a high proportion did talk about the sex they had. *Did you talk about the sex you had?* 85% of those paying for sex compared to 91% of those been paid for sex had.

*Did you talk about sex you have with men?* 88% of those paying for sex had compared to 91% of those been paid for sex had.

6. ESTIMATION OF THE SIZE!

In planning services and health promotion strategies its worth estimating the targeted population. According to the 2011 census there are 2,272,699 males in the state [www.cso.ie](http://www.cso.ie).

Taking the aged 16 and over n=1,772,705 and ISSHR findings there could be up to 113,453 men who have ever paid for sex from women. Accordingly the EMIS study gave an estimation of the number of MSM population at 3% of a male population. This would mean 54,000 MSM and of these upwards of 2,538 could be buying sex and 2,214 selling sex.

7. CRIMINALISATION AFFECTS

It’s important for those involved in strategy and health provision to look at the social and health consequence of any legislative change. This can be done by looking at previous affects as outlined at the beginning of this presentation.

*Access to condoms:* there is the history of the condom trains or the false prescriptions at family planning centres and the tables at the Virgin mega-stores Aston Quay and student unions resorted to making them available. [http://debates.oireachtas.ie/dail/1992/07/01/00082.asp](http://debates.oireachtas.ie/dail/1992/07/01/00082.asp)

*Homosexuality:* In 1982 the Charles Self Committee (later the Gay Defence Committee) formed in response to the actions of the gardai after the murder of Charles Self, a gay man. “Self was stabbed to death in his Dublin home on January 20, 1982, perhaps by a man whom he had met in a gay cruising area that night. The gardai, who had a description and sketch of the suspect, interrogated, photographed, and fingerprinted nearly 1,500 gay men, almost none of whom
resembled the man sought. The interrogations often centered on the private lives of the men questioned rather than the solution of the murder. The Defence Committee, the Irish Council for Civil Liberties—and media coverage of the gardaí’s practices eventually brought a halt to the wholesale interrogations”. A Commitment was given to destroy the files (Out for Ourselves 1986 isbn 0 947802 35 5) and http://www.glbtq.com/social-sciences/ireland,2.html

The gardaí never arrested anyone for the murder of Charles Self. In July 2011 a cold case was opened and the Gardaí appealed for anyone with information to come forward. “The victim was a well-known member of Dublin’s then small gay community in 1982 and we would appeal for anyone who may have been fearful of dealing with the police because of their sexuality 29 years ago to come forward now,” a source told the Evening Herald. http://www.gcn.ie/Irish_Gay_Cold_Case_Could_Be_Reopened

HIV Prevention: Gay Health Action (GHA) established in 1985 could not get funding from the DOH nor meetings with the then Minister for Health because of the legal situation in relation to homosexuality.

Recently the British government announced that over 16,000 men who were convicted of homosexual offences pre-1967, can now clear their record. In 1967 the homosexual sex was de-criminalised and the legal age of consent was set at age 21 this was later changed in 1994 to 16. Though the same pre-1967 laws existed in Ireland criminalising homosexuality they were rarely used, while in Britain even after the law changes in 1967 thousands of gay men experienced round-up or entrapment by “pretty Policemen”. In 1988 Margaret Thatcher introduced clause 28 ordering local authorities “not to promote homosexuality, publish material or promote teaching in school of the acceptability of homosexuality as a pretend family relationship”. (Irish Times 2/10/2012 page 9)

The NASC in 1992 recognised that the criminalisation of homosexuality inhibits promotional work in this field (page 36, NASC 2000).

Legislation should be amended to allow for sale of condoms from vending machines and also allow for distribution of free condoms by statutory and voluntary agencies involved in HIV prevention (page 29, NASC 2000)

The committee recommends: that prostitutes be consulted in the development of educational materials (page 37 NASC 2000) “It is felt by some workers in the field that criminalisation of prostitution is a barrier to effective health promotion and HIV prevention work” (page 38 NASC 2000)

Action Area 3 of the Mid Term Review of the HIV and AIDS Education and Prevention Plan 2008-2012: Targeting sex workers, interventions, enhanced interagency approaches for outreach programmes, condom distribution, increased screening and testing, research. A review of the current legislation governing prostitution to ensure that access to health and social services is not impeded (NASC 2011 page 39)
8. Disability and Commercial Sex Work
Another hidden group are disabled people who already experience difficulties in relation to sex and sexuality while commercial sex is very much a taboo. Yet there are some reports and documentaries of disabled people buying sex (from women) and been facilitated to do so by local authorities and carers. Could these disabled people or their carers’ be classed as criminal?

“Councils pay for prostitutes for the disabled”
Taxpayers’ money is being spent on prostitutes, lap dancing clubs and exotic holidays under schemes designed to give more independence to the disabled”. In response to Freedom of Information (FOI) requests, four local authorities describe themselves as “condoning” the payment of sex workers by disabled clients, using money transferred from their budgets. Other councils said they took no moral judgement about the use of funds, but said care money could be spent on anything, as long as it was not illegal. Paying for sex is not against the law but soliciting sexual services, kerb crawling and paying for sex with women who have been coerced into prostitution is.
http://www.telegraph.co.uk/health/7945785/Councils-pay-for-prostitutes-for-the-disabled.html#

“Are you having a nice night?” is a line Asta is used to hearing, delivered by women in pubs and clubs throughout his adult life. There often seems to be a patronising undertone. Flirting isn’t easy when you can’t move. Last year, he chose to lose his virginity in a licensed Spanish brothel. This year he took two other disabled men on a bus trip to the same brothel, filmed by BBC’s One Life. "When I was younger I had a friend and we always used to talk about relationships. He had muscular dystrophy and passed away without having a sexual experience. Why should people struggle for that experience?”, Asta says.
http://news.bbc.co.uk/2/hi/7057929.stm

In Britain TLC Trust a group concerned with disabled rights have a website “connecting disabled men & women to sex workers and body workers”. Through its website http://www.tlc-trust.org.uk/services/index.php the TLC Trust provides “opportunities, advice and support to disabled men and women so they can find appropriate sexual and therapeutic services. It does so by:

• inviting responsible sex workers, striptease artists, massage therapists and tantric teachers to list themselves on its website, for the benefit of disabled men and women who may wish to hire them.
• offering information and advice to sex workers and therapists on disability”.

Nick Wallis a young man diagnosed with Duchenne Muscular Dystrophy, a progressive and life-limiting condition, stayed at a hospice for weekends since he was 13. In an article in the Guardian newspaper Nick wrote about disability and sex and his first sexual experience at aged 20 with a sex worker. “I was already aware that other people with disabilities used, for want of a better word, prostitutes, or more politely, sex workers”. With one of the care team and acknowledgement of some of the “Nuns and the staff” (TLC) and with support of his family a visit of a sex worker to Douglas House Hospice was arranged.
http://www.guardian.co.uk/society/2007/jan/15/health.socialcare
“Dr Sarah Earle, of Coventry University, interviewed a variety of people who look after men confined to wheelchairs and found they often acted as "sexual matchmakers". Her findings, including revelations that prostitutes were arranged for men with conditions such as muscular dystrophy and cerebral palsy, are to be published in the Disability & Society journal. It is the first work to disclose how publicly-funded carers are providing sexual services for their disabled clients, even though many are reluctant to get involved. Dr Earle said: "Sex is a key issue: many carers describe it as a want, which can be a matter of choice, while the disabled regard it as a need that should be accommodated as part of the carers' job description".

http://www.thefreelibrary.com/Prostitutes+part+of+care+package+for+disabled.-a060539633

In Australia the Department of Health and Human Services in Hobart produced an act in 2001 making it legal for 'health workers' to aid disabled people in accessing sex workers, while brothels in Melbourne installed fully accessible rooms (p41 Griffiths). In Germany and Switzerland groups are training people as touchers and also sex workers to work with disabled people (p42 Ibid) in Denmark the Ministry of Social Affairs (2001) states that “contacting and helping a disabled person to visit to a prostitute can be part of a carers duty in relation to a clients sexual needs (p46 IBID) http://www.leeds.ac.uk/disability-studies/archiveuk/griffiths/dissertation.pdf

9. The Law and Health Service Provider Consequences

Findings from the two significant research reports Real Lives and EMIS shows that MSM buying and selling sex are very much part of gay and bisexual male community and therefore hard to distinguish. Certainly both groups access the GMHS and other sexual health services. Each group has significant health needs in relation to HIV prevention and sexual health.

Access to support, sexual health and support services including information, condoms and lubricant is vital. Reports show that those who use services and test are more informed and inclined to look after themselves. Introducing further legislation would inhibit this and make it more difficult to access to service or support. It:

- may delay attending (especially if they have symptoms) or if they have to search out whom they can attend for STI services.
- would be reluctant to talk or disclose the sex they have.
- would directly affect the Statutory Notification process I.E the syphilis notification form requests information in relation to commercial sex (http://www.hpsc.ie/hpsc/AZ/HIVSTIs/SexuallyTransmittedInfections/Syphilis/SurveillanceForms/)
- could further create stigma and impede the de-stigmatisation process advanced by the NASC and the HSE & GHN programme.
Finally by creating an “us and them” (Hidden Stories) leads to stigmatisation whereas accepting that -people selling sex can be lesbian, gay, bisexual, transgender, heterosexual male and female -people buying sex can also be lesbian, gay, bisexual, transgender, heterosexual male and female, might lead to providing better services and support.

In the 2003, Katarina Lindahl the secretary general for the Swedish Association for Sexuality Education (RSFU) in launching the *Hidden Stories Conference* stated she was involved in the discussion (in the 1970s) to penalise men who buy sex. “Already at that time I was sceptical to that solution. Today RSFU does not approve of the current law in Sweden”.

She went on “I see a very positive effect emerging from the discussion, that focus has shifted, from only seeing the women, to also talking about the extremely important role on the demand side. ….This has to be addressed but criminalising cannot do this”.

“It has been said that a ‘punishment’ is important, because it gives a clear norm about what is not acceptable in our society. But we know that there is already a strong stigma related to prostitution and also to the people involved, and stigmatisation is never good if you claim to support individuals. Stigmatisation is only a way to draw a line between ‘us’ and ‘them’”.

She went on “An impression can be that this (Swedish) law allows politicians a possibility to claim that they are taking action. But four years after the implementation, there are still no signs that prostitution is decreasing in Sweden” (page 6 2004). [http://www.rfsl.se/public/Hidden%20Stories.pdf](http://www.rfsl.se/public/Hidden%20Stories.pdf)

Men and women in prostitution are not different from anyone else (page 7 Hidden stories)

**9.1 UNAIDS & World Health Organisation (WHO)**

Both UNAIDS and WHO have led the way in producing guidelines for prevention and treatment of HIV and other sexually transmitted infections among men who have sex with men and transgender people, including sex workers. The guidelines address the issue of stigma, criminalisation and the affect of delay in finding support, testing or treatment and the denial of such services. Below are two recent publications.


In December 2012 the new guidelines to better prevent HIV in sex workers

IN launching this Dr Gottfried Hirnschall, Director of the WHO Department of HIV/AIDS. Stated that “The risk of a sex worker becoming infected with HIV and STIs is far higher than for other people,”

The objective of the guidance document, is to provide technical recommendations on effective programmes for the prevention and
treatment of HIV and other STIs among sex workers and their clients. [Link](http://apps.who.int/iris/bitstream/10665/77745/1/9789241504744_eng.pdf)

“These new WHO guidelines recommend that countries work towards decriminalisation of sex work and urge countries to improve sex workers’ access health services. They also outline a set of actions to empower sex workers and emphasise that correct and consistent condom use can reduce transmission between female, male and transgender sex workers and their clients”.

**Conclusion**

Basically all of the above along with the UNAIDS, World Health Organisation (WHO) reports, highlight that HIV prevention and sexual health awareness timely access to HIV testing and STI services, challenging stigma, is paramount for all MSM and transgender people including those who sell or who buy sex.

In June 2012 the HSE and GHN launched the 2nd phase of Man2Man.ie Programme on challenging stigma towards MSM living with HIV.

The slogan ‘Support each other...we’re all worth respecting” perhaps should be used for all of us, involved in all the areas of commercial sex work.

January 2013
In February 2011 Primetime broadcast a special report into prostitution in Ireland.

The programme was a result of more than 6 months of intensive undercover investigation which revealed the frightening reality for women involved in prostitution across the cities and towns of Ireland and exposed the people profiting from the sex trade and the ever-growing demand here for paid sex with young, foreign and often vulnerable women.

The programme used cutting-edge technology to trail hundreds of women being moved, almost without trace, all over Ireland by Irish and foreign national criminal networks based here and in Eastern Europe.

The common perception of human trafficking is one of foreign nationals being smuggled into Ireland in the back of a 40’ container.

The reality is human trafficking is much broader than that.

The UN definition of human trafficking is the movement of persons, by means of threat, or force, or fraud, or deception for the purpose of exploitation. In short the forced, organised and controlled movement of individuals both across and within borders.

In order to determine the level of the forced or organised movement of women here we created a database which recorded every single movement of every escort, every day on the country’s largest sex for sale website, Escort-Ireland.com.

Over a 12 month period the database indicated a high level of organisation and management behind the movement of hundreds of women every week right across the country.

On average, during the period in question, 438 women moved or were moved every week.

Further analysis of those figures revealed the level of organisation behind the movements.

For example in the period 446 women moved from Cork to Dublin. In the same period exactly the same number, 446 moved from Dublin to Cork.

358 moved from Galway to Dublin, while 354 moved in the opposite direction from Dublin to Galway.

295 moved from Belfast to Dublin while 291 moved from Dublin to Belfast.

That pattern is repeated for every town and city around the country.

During the 12 month period in excess of 8,800 profiles were advertised on the website.

The daily average number of women advertised on the website was 693.

The average age of the women advertised on the site was 25.1 years old.

19.36% of all the escorts advertised were 21 years old or younger.

Almost half of all those advertised were 25 years old or younger.
97 of the women advertised or 1.1% were advertised as Irish.

283 or 3.2% were advertised as UK citizens.

The vast majority, 95.69% were advertised as foreign nationals.

However when we investigated this further we found that many of those advertised as foreign nationals did not reveal their true nationality. For example many women from poorer Eastern European countries like Romania were advertised as Spanish or French.

The number of women advertised as working for an agency was just 67 or .76% of the total number.

The vast, vast majority 99.24% were advertised as working as independent Escorts working for themselves.

Our research revealed this to be a complete fabrication. In reality most of the women work for a pimp.

Another indicator of the level of organisation comes from the evidence we gathered relating to mobile phones.

During the 12 month period in question we found in excess of 7,300 mobile phones being used through this one website alone.

More interestingly we discovered some form of linkage between 5,168 of those phones. In some cases the phones had multiple users at different times.

In other cases the numbers, despite being used at different ends of the country were just one or two digits apart.

Sim cards are sold in packs of 10 sequential numbers. As a result the odds of two numbers one or two digits apart, appearing at different ends of the country are astronomical.
May I begin by thanking the Chairman and the Committee for the opportunity to address you this afternoon on such an important topic as prostitution legislation and ways in which that legislation could be enhanced to deal more effectively with the emerging trends within the prostitution industry. We are of course happy to assist the committee in any way we can in relation to the operational policing aspects. However, it would not be appropriate for us to answer questions concerning Government policy and that would, of course, include expressing views regarding any appropriate legislative model that might be applied in the future.

**Introduction**
The Garda Síochána has targeted ‘on-street’ prostitution but has done so more particularly with the enactment of the **Criminal Law (Sexual Offences) Act, 1993** which criminalises the soliciting, importuning and loitering for the purpose of prostitution or commission of sexual offences in a public place. This legislation has dramatically reduced the number of persons engaged in on-street prostitution over the last decade.

Organised prostitution/Off-Street prostitution has advanced with the expansion in technology so much so that the majority of the industry relies on the internet and mobile phone technology to facilitate the smooth running of illicit operations, which in itself has proved difficult for investigating Gardai due to the faceless nature and mobility of these technologies.

Over the last decade the Irish Escort industry has developed into a destination of choice for working prostitutes, which was mainly due to the economic ‘Boom’ along with the expansion of the European Union. During this time people engaging in the prostitution industry were earning three times the rate of that in other European destinations. This resulted in an estimated 800 female prostitutes advertising their services via the internet, on a daily basis, within the jurisdiction. As a result, prostitution services are offered and available in every county within the jurisdiction.

In the three years since 2010, the criminal proceeding and conviction rates under the **Criminal Law (Sexual Offences) Act 1993** are as follows:-

**Year 2010: Prostitution, Prosecutions & Conviction**

<table>
<thead>
<tr>
<th>Offence</th>
<th>Proceedings Commenced</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brothel Keeping</td>
<td>65</td>
<td>21</td>
</tr>
<tr>
<td>Organising Prostitution</td>
<td>7</td>
<td>3</td>
</tr>
<tr>
<td>Soliciting or Importuning for Prost.</td>
<td>102</td>
<td>19</td>
</tr>
<tr>
<td>Loitering for purposes of Prost.</td>
<td>21</td>
<td>12</td>
</tr>
<tr>
<td>Living of Earnings of Prostitution</td>
<td>7</td>
<td>1</td>
</tr>
</tbody>
</table>
Year 2011: Prostitution, Prosecutions & Conviction

<table>
<thead>
<tr>
<th>Offence</th>
<th>Proceedings Commenced</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brothel Keeping</td>
<td>62</td>
<td>17</td>
</tr>
<tr>
<td>Organising Prostitution</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Soliciting or Importuning for Prost.</td>
<td>107</td>
<td>19</td>
</tr>
<tr>
<td>Loitering for purposes of Prost.</td>
<td>35</td>
<td>17</td>
</tr>
<tr>
<td>Living of Earnings of Prostitution</td>
<td>4</td>
<td>1</td>
</tr>
</tbody>
</table>

Year 2012: Prostitution, Prosecutions & Conviction

<table>
<thead>
<tr>
<th>Offence</th>
<th>Proceedings Commenced</th>
<th>Convictions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brothel Keeping</td>
<td>47</td>
<td>8</td>
</tr>
<tr>
<td>Organising Prostitution</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Soliciting or Importuning for Prost.</td>
<td>46</td>
<td>3</td>
</tr>
<tr>
<td>Loitering for purposes of Prost.</td>
<td>16</td>
<td>0</td>
</tr>
<tr>
<td>Living of Earnings of Prostitution</td>
<td>2</td>
<td>0</td>
</tr>
</tbody>
</table>

Prostitution by its nature affects the wider community and society because of the manner in which it is conducted, particularly when done so in public places.

However, the main source of advertising for prostitution is the internet and one to one contact between prostitutes and potential clients is conducted via mobile telephone. It is suspected that this may evolve to the social networking sites and other communication methods in the near future, if it is not already happening.

The “Department of Justice and Equality Discussion Document on Future Direction or Prostitution Legislation” issued in August 2012, seeks answers as to the way the criminal law on prostitution addresses the rights of communities and society in general. Chapter 1 of that report acknowledges that prostitution has largely moved indoors since the last major review of prostitution legislation with the enactment of the Criminal Law (Sexual Offences) Act 1993.

An Garda Síochána have long since held the view that two of the most vulnerable groups in society must be to the forefront, those being ‘children & vulnerable persons’ and secondly the people who find themselves the victims of the prostitution trade, or as the document refers to them as the ‘sex workers’.

1. Introduction of an ‘anonymity’ provision in respect of ‘vulnerable’ witnesses

The Garda Síochána would see the introduction of an anonymity provision for vulnerable witnesses as a way of greatly assisting investigations whereby it would curb or at least alleviate the fear of media exposure.
A number of legislative provisions already exist which highlight the sensitivities of sexual offence investigations namely Section 7 of the Criminal Law (Rape) Act, 1981 as amended (Anonymity of complaints) and Section 11 of the Criminal Justice (Human Trafficking) Act, 2008 (Anonymity of victims of trafficking).

This provides reassurance that a witness would not suffer the further stress and trauma of exposure in the media in any subsequent prosecution which may be initiated.

2. Use of Telephone technology in prostitution

Throughout the last decade prostitution has significantly increased within the jurisdiction.

Garda Operations have been conducted (e.g. Operation ‘Gladiator’ and Operation ‘Quest’) to investigate the prostitution industry specifically within the Dublin Metropolitan Region. Both operations were conducted at different time periods within the last decade and analysis of these operations conclude that mobile telecommunication advancement has contributed significantly to the expansion of the industry.

Both brothels and escorts agencies advertise their services on numerous websites and provide their contact details, usually mobile telephone numbers, through these sites. On contacting these numbers a person can arrange a call out service to a nominated address or alternatively receive directions to a specified address. These facts are supported by operational experience as well as on foot of evidence from numerous witnesses who have provided statements in Garda investigations.

To highlight the significance of mobile telecommunication within the industry it is proposed to briefly detail an investigation which was conducted into prostitution.

A surveillance operation was put in place in respect of a brothel operating from a Dublin premises from which there was upwards of sixteen working prostitutes. During the course of the surveillance operation, a number of witness statements were taken from patrons who had just exited the brothel. All those interviewed stated they rang a mobile phone number and received directions to the brothel.

Following the surveillance operation, the premises itself was searched. A number of follow up searches were carried out, including a search of a particular apartment which had been identified as the ‘Call Centre’. At this apartment thirty-five (35) mobile telephones were recovered. Twenty-seven of the phones recovered were prepaid phones. These phones were being used exclusively for the purpose of organising habitual prostitution. Extensive documentation supporting this fact was also recovered.

These phones corresponded to the numbers which were listed on the web sites and some of them also corresponded to the numbers given in statements by their clients.

Further investigations carried out revealed that fourteen of the twenty-seven prepaid phones had been re-activated by the user. Those same numbers were again used for the
purpose of organising habitual prostitution. The investigating Gardaí soon came to realise that the phones were the ‘lifeline’ of that particular prostitution enterprise and were very valuable assets to the perpetrators of such crime. Some of these numbers have, over a period of time, been used to establish a cohort of steady clientele. Without these phones, the majority of these brothels would cease to function.

**Conclusion:**

Historically the organisers of prostitution have operated within this jurisdiction with the belief that the Garda Síochána would sporadically target the industry. A noticeable change in the industry has occurred over the last 2 – 3 years which has seen increase in the number of foreign nationals associated with the running of prostitution businesses in the jurisdiction. Some of these individuals are associated with organised crime groups both in this jurisdiction and their country of origin.

It is highly probable that a large percentage of the monies generated from the industry are being redeployed into Organised Crime Groups both domestically and internationally.

Finally, the Garda Síochána look forward to continuing to co-operate with the Joint Committee on Justice, Defence and Equality and the Department of Justice and Equality in identifying ways to enhance the legation dealing with the prostitution industry in Ireland.
To the Honourable Members of the Joint Committee on Justice, Defence and Equality

The submissions contained within are each from formerly prostituted Irish women and are presented to you now under the banner of SPACE – Survivors of Prostitution Abuse Calling for Enlightenment – the survivors’ organisation we have recently formed.

Three of our members have made individual submissions to the Committee. The fear of public exposure has been too great for some women, and one woman was unable to complete the submission she had begun because she found it too emotionally traumatic. All of us, though, have had input into the constriction of this cover letter.

We ask that you keep the existence of our organisation out of the public domain as we have no desire to draw attention to ourselves at this time. We do intend to make ourselves known publicly, but not until we are organised and ready to engage with the media. We would be very grateful if you could accommodate us in this.

Most importantly, we would appreciate hugely if you would consider our submissions, each of which are drawn, painfully, from our personal life experiences, and keep them in mind during the process of the impending legislative change.

You will notice that our stories are very individual. This reflects the reality of women in prostitution generally, some of whom come to prostitution through destitution or the fear of destitution, others come to it through the grooming of sexual abuse; still others come to it through the horror of narcotic addiction.

Many women come to prostitution by a combination of these and other routes. Though we do not pretend to speak for every prostitute who ever lived, we assert our experience that all of the women we met in prostitution came to it though some negative circumstance and also that they were very obviously psychologically wounded by it. We would like to point out that we have a combined life experience of prostitution that amounts to almost forty years, and that on not one day of that time did any of us meet a woman who was happy in that lifestyle.

We believe our shared experience makes clear that the vast majority of women in prostitution are deeply unhappy and that no other logical conclusion can be drawn from it. We also know, however, that leaving prostitution is not an option for many
women because they lack the supports we would like to see implemented, which would include assistance in education, training, housing and counselling services.

We assert that prostitution is commercial sexual abuse; that this is how we lived it and this is how we witnessed it, and we are strongly in favour of the criminalisation of the demand for paid sex. We cannot state this strongly enough. We also believe that people who sell sex should not be criminalised, on the principle that no person should be criminalised for their own exploitation.

There needs to be a total social change in the way society perceives prostitution. We believe that this is possible, and if we look at how views have changed in recent years in Ireland towards drink-driving and indoor smoking, we see two examples of how legislation and strong governmental leadership have led to radical shifts in long-held social beliefs. We see also the great benefits that have come about because of it.

We want to see this sort of strong leadership applied to the social harm we have lived. We have, each of us, been profoundly damaged by prostitution and we desperately do not want this human rights abuse to be considered tolerable by Irish society anymore.

We place our hope, and our trust, in your judgement.

Yours sincerely,

[names removed], and the other members of SPACE
Dear Members of the Committee,

I am a thirty-six year old Dublin woman who was prostituted in this city and other Irish cities between the years 1991 and 1998, from the age of fifteen to twenty-two.

I left home a few weeks after my fourteenth birthday because my schizophrenic mother did not know how to grieve the recent suicide of my father, and took to mentally and emotionally abusing me as an outlet for her grief. I was taken into care and placed in a residential unit, then shifted from hostel to hostel, a number of state-funded B&B’s, one foster home and then eventually expelled from school and thrown out of a hostel, where I found myself on the streets. I fended for myself through shoplifting and sleeping in squats and derelict buildings and then I met a man who had a great idea about how we could earn money and how I’d never have to worry about being homeless again. He was my boyfriend as far as I was concerned, and my pimp as far as everyone else was.

I cannot quantify the painful memories that followed that. I was used sexually by hundreds and hundreds of men before I reached my sixteenth birthday, and I quickly learned how to imagine myself away, how to pretend that I was not there, to pretend that it was not happening.

But it did happen - and it happened over and over and over and over again - and I am not pretending anymore. I have spent fourteen years trying to come to terms with this. I have spent the same length of time trying to learn how to live in the world. I am still learning, and some part of me fears that I probably always will be.

I did try to move on to the best of my ability. I returned to adult education at twenty-four and went to DCU the following year, where I completed a BA in Journalism. I spent most of my twenties trying to find my feet in the world, get my degree, secure a home in a decent area in which to raise my child. I did these things, normal things; I got a job. I had two relationships. I found though that the deepest part of me could not move on until I had done the one thing that would free me: tell the truth about prostitution; and so I returned again and again to the painful task of trying to write my book. I finally realised, in 2008, that I had spent the last ten years trying to move on in practical ways, while also trying to tell my truth, but I had done nothing to try to heal myself from the emotional and psychological trauma of prostitution, which had left me crippled with anxiety and the deepest sort of depression. It was a psychological wounding that went right to my soul. I realised that if I was to truly move on I had to first truly heal, which meant confronting my past in therapy, and so I did that, for over three years.

I have found the timing of all this extraordinary, because just as I was coming towards the end of writing my book prostitution had begun to heat up as a political issue. Last year I attended the launch of the Turn off the Red Light campaign and I felt
compelled to speak at that meeting, introducing myself as a former prostitute, before talking briefly about my experience of prostitution; about the homelessness that led to it, the harm caused by it and the relief I felt that prostitution and trafficking were being tackled together. I said that there was no difference worth regarding when this is only a matter of two different sets of circumstances bringing women to exactly the same place.

I wrote an article for the Irish Examiner that was published on 15th February this year which I will not include in this submission because I’ve been told it is being forwarded by the Men’s Development Network. I will instead include some of my blog posts as appendages, which I wrote under the online name ‘FreeIrishWoman’. I am going public with my identity in the spring and I am very frightened about what is ahead of me, but one thing I know very deeply is that in my healing and in truly finding a way back to myself, that is just not possible without continuing to follow the course that I’m on.

There is a great deal of healing to be done from the emotional and psychological torment inevitable for somebody who has been used sexually by thousands of unfeeling, uncaring and often contemptuous and violent strangers. I feel that this submission is an opportunity for me and for all the members of SPACE to finally give voice to our experiences, and more importantly to do so to people who are actually in a position to do something about it. I feel a very genuine sense of gratitude for that opportunity; I am gladder about this happening than I can say.

There are so many things I want to tell you, and I needn’t bother fooling myself that I will fit them into a statement of this size. I will have to try to stick to the most important facts, and one of them is this: when I was working in prostitution throughout the nineties there were many more underage girls working alongside me than public perception seemed to be aware of. As a fifteen-year-old on Benburb Street I met several mid-teen girls and one girl I worked alongside was only thirteen-years-old. When I was arrested in 1992 my arrest made the front page of the Irish Press. ‘Sixteen Year Old Taken From Brothel’ was the headline. I remember feeling very strongly the gulf between myself and society, yet again, on seeing that article, because for me there was no news element whatsoever in teenagers being in brothels; it was a part of my daily reality – yet here was evidence that the conditions of my life were so outlandish to the rest of society that they were considered front page news. I also remember being thankful that I hadn’t been arrested two months before I was, because I’d only just turned sixteen, and had I been arrested at fifteen the Children’s Court in Smithfield would probably have detained me for longer than they did.

I was also arrested and taken to Harcourt Terrace the following year and photographed by the guards. I was seventeen at that point; the 1993 laws had just been passed and there was nothing for it but to move indoors.

I want to make the Committee aware also that over the course of seven years I never met a woman who maintained that she was happy in prostitution. I have only ever come across that sort of talk on the internet; I never heard it anywhere in prostitution.

The arguments I have heard in favour of prostitutions legalisation or decriminalisation always ignore one vital truth, and that is the simple wrongfulness of society accepting
one class of women should be set aside to be treated as less than human. We none of us, whether prostituted or not, would choose prostitution for the women close to us in our lives. Pimps and punters would not choose prostitution for the women close to them. Those who argue for the legitimacy of prostitution always argue, without fail, for the legitimacy of prostitution for other women; they do not argue for prostitution to be introduced into the lives of their own daughters, sisters, nieces and mothers. They argue for the institution of prostitution, but they do not argue for its touching the lives of the women they love. Women in prostitution are the very last people who will ever argue for prostitution to be introduced into the lives of women they love, and this, for me, tells its own story.

Many pro-prostitution arguments just do not stand up to the lived reality of prostitution. For example, I know people will make the point that sexually using the bodies of those under seventeen is already illegal. Please believe me when I say that the men who buy sex couldn’t care less about that, and when they think of it (which is often) it is to give themselves the kinky little thrill they get from doing something they know to be illicit. Wherever prostitution is tolerated there will always be men seeking the bodies of underage girls to commercially sexually abuse. The truth is that adolescent bodies in prostitution are most highly sought after and most highly prized and making the sale of adult bodies acceptable will do nothing to erase this. We have only to look at Switzerland for evidence of this. In Switzerland, where the bodies of sixteen-year-old girls are legally for sale, a serious problem continues whereby clients are not satisfied with sixteen-year-old legal prostitutes and the problem of adolescents younger than this being sexually commercially abused (and often trafficked for this purpose) in illegal prostitution continues to doggedly persist.

And this brings me to the issue of the persistent attempts to separate trafficking and prostitution. Having your body used sexually against your wishes is experienced as sexual abuse, whether it was a gun or a less obviously coercive scenario that was responsible for your acquiescence. There is no meaningful distinction to be made between the victims of trafficking and prostitution. Please imagine how unthinkable it would be if we were to divide domestic violence sufferers into two categories: genuine victims and misbehaved wives who were asking for it!

What I would like the Committee to know is that there is no such thing as autonomy in prostitution. People talk about a woman’s right to do what she likes with her own body. Well, what this opinion ignores is that it is not the women in prostitution who choose what to do with their own bodies; it is the men who pay to use woman’s bodies who choose what is to be done with them. In seven years of prostitution I never once had the opportunity to choose what was to be done to my body and I do not believe the nonsense that anyone else has because that is not how prostitution works. Once a body has been commodified autonomy is lost to the person who lives in that body and they then find themselves used to the whims of those who pay to use them. I have never known prostitution to operate any other way.

It is clear that what we need to do to reduce prostitution is to deter the demand for it. Many reports, including the 2011 Boston study ‘Comparing Sex Buyers with Men Who Don’t Buy Sex’ and other recent studies closer to home, in London and Glasgow, point to two clear deterrents in dissuading men from buying sex. One is public exposure; the other is a criminal conviction.
I believe that criminalisation of demand is the only way forward, and that any other way is doomed to the same failure we have seen in all the countries that have implemented them.

I set up SPACE in recent months because I wanted us women to come together and work together to help in bringing about social change. When I think about what we are doing here, what we are campaigning for, I think of all the young Irish girls who go to sleep soundly in their beds every night, with no notion how welcome their bodies would be in the brothels if only the circumstances existed in their lives to place them there. I think about those girls as I campaign for change because I was one of the girls whose life conditions did place her there; and I would never forgive myself if I did not speak up and say something, and do something, to try to prevent the perpetuation of what happened to me and what I saw happen all around me.

I have heard it argued that disabled men should have a ‘right’ to sexual intercourse with women, and I have heard this view espoused as one of the arguments in favour of prostitutions legalisation. What I have never heard is anyone express the view that perhaps we should share the responsibility for disabled men being sexually satisfied equally among women; I have never heard anyone suggest that perhaps we could run a sort of lottery system, a public service duty, something akin to jury duty, which would randomly select women from among the population to service the ‘needs’ of these men.

We all know how unthinkable such a suggestion would be. We do not have to think about it; we immediately see it for what it is; we immediately sense it for what it is. But let me put it to you that the institution of prostitution does just the same thing. In prostitution, women are randomly selected from the population because of homelessness, poverty, addiction, histories of child sexual abuse and other circumstances and combinations of circumstances beyond their control. Let me put it to you that this lottery is already in operation, and that I know because I was one of those selected.

Yours Sincerely,

[name & details removed]
I am a woman who worked as a prostitute for 20 years. Like many I got into it for a so-called loving partner. The stories I read about how glamorous it's supposed to be make me ill. It's a hard cruel life filled with lies, beatings and rape. In the end you feel like a toilet. People call you terrible names when you get caught, even the ones you love turn on you.

What I’d like to ask is what about the men? They can do whatever they want to us and there is nothing we can do about it. Why aren’t they named and shamed? What they are doing is pure abuse and they are doing it for fun so why isn’t what they’re doing a crime?

I was so lucky to get away from my pimp/partner and then leave the brothels behind me but I'll never leave the scars behind. If men were charged and named and shamed believe me there would be no prostitution.

The men that pay for sex are weasels, sad ugly-inside men who would never get a second look at the women they pay. If the men had been criminalised twenty years ago the cowards wouldn’t have dared pay a woman and maybe my ‘loving partner’ would never have been able to sell me. Now I see a man’s penis just as a sword of flesh, an object to hurt a woman.

I’m so happy to be away from it but I will always be seen as a prostitute no matter how I better myself. It won’t stop me trying. Maybe one day.

[name removed]
THE GROOMING.

It’s difficult to pin-point my exact reason for entering the seedy, sordid world of prostitution, if I were to, it would possibly take years to write, that being a book within itself. Instead I will keep my story as brief as possible, although I would also like to draw attention to the fact that, most women, like myself have a story to tell, although not identical, have one common trait that is impossible to ignore and that is abuse. Abuse takes on many forms from physical violence, sexual violence, name-calling and neglect to name but a few. As a child I experienced, on a daily basis at least three forms of the above, making me the “ideal candidate” for prostitution—meaning I was vulnerable, suffered from extremely low self-esteem and from an early age knew that I had to depend solely on myself for survival.

My mother was and still is an alcoholic. My earliest memories of her were of her stumbling around the streets while holding mine and my brother’s hand, spitting and screaming obscenities at strangers and passersby. We spent approximately a year in refuge with her where we were continuously monitored by social workers. To this day it still baffles me that we were legally allowed in her care, given how ill she actually was. My father was an extremely brutal violent man, it’s fair to say that his behaviour bordered more on sadistic, although he was never violent towards my mother, it was always directed at me and my siblings.

After a year in refuge, we were given a council house in a disadvantaged area of the city, although I was delighted to finally have a “home” so to speak. My mother’s alcoholism kicked off in full force, because she was now free to drink whenever she wished—which was all day every day until she passed out from a combination of booze and barbiturates. My father was absent for this and my sister was eleven, nearly twelve. I was so grateful for having her as it meant I had somewhat of a parental figure in my life, I was seven and didn’t understand the concept of the fact that my sister was herself, just a child.

One summers evening, in her drunken stupor, my mother had cleared yet another bottle of Smirnoff vodka and advised a neighbour that she had been dreaming about drowning me and my brother and herself. A short period of time later my sister returned from school. At this stage, my mother was even more blindered. She was sitting under the stairs with blood streaming from her head. A short while later two women came to our house and told us that my mother was very sick and need to go to get better. It didn’t really make much sense to me at the time. My father was contacted at work and set about in his parenting role while my mother was sent to rehabilitation. His parenting role basically consisted of ordering us to keep the house clean and ensuring that my sister brought us to school, made lunches and essentially took on the role as my mother. Essentially, he was an absentee father, but to be honest I was glad deep down because when he was present he was nothing more than a brute and a bully.

I was free to run wild. I had no major parental influence in my life and I even started to have a boyfriend, who, for the sake of anonymity I will refer to as Derek, who was seven years older than me, but I liked his companionship. He would always tell me how pretty I was. I was pretty, but a child, with a flat chest and pigtails. Most evenings he would take me to a field nearby, French kiss me, look at my underwear and push himself up against me. I hated it but thought that it must be in some way normal. I was seven and knew nothing.
When my mother left rehabilitation, there were brief periods of normality and we move to a more up-market area of the city, where I was later to go to Secondary School. I started Secondary School aged thirteen and quickly began to realize that I received a lot of male attention which to me was fantastic at the time as I never believed that there was anything really good about me. This gave me a small sense of empowerment and security about myself. I also became friendly with a girl named Anita. I was warned by teachers, friends and my mother to avoid her at all costs as she was often referred to as “troubled”. Of course, I didn’t believe that – I knew her mother was unwell and had attempted suicide on several occasions, I guess in a way, I empathized with her as a result of my own family situation- it had been as a result of my grandmothers suicide that my mother’s alcoholism had kicked off..

Anita’s mother died as a result of suicide when she was just fifteen years old. A couple of months later she left school and moved to London by herself with money from her mother’s inheritance. She would contact me from time to time saying that she was well and working in restaurants and bars for “cash in hand” as she wasn’t old enough to claim benefits or work legitimately.

My home life remained chaotic and violent. I hated school and had no real interest. I willed for my sixteenth birthday to come around so that I could get away perhaps get a job. My mother would frequently refer to me as a “whore” and a “useless lazy bitch”. My father’s fists were his weapon. When I was sixteen, a neighbour named Mike took me for a drink. It was Christmas time and I was delighted that I was going to be out of the house for a while. I had two glasses of beer and returned home. My father was waiting at the gate for me. Mike wished me a happy Christmas while, my father, standing at the gate in his underwear called him a pervert and and a whore master. Mike continued walking. My father dragged me by the hair, along the cold pavement into the sitting room where he proceeded to thump me repeatedly into the face with his fists. The attack lasted about ten minutes until the intervention of my brother. Strangely, I didn’t feel much pain, maybe because of shock, I was aware mostly of the taste of blood in my mouth. The following morning when I looked in the mirror, my face was beyond recognition. My lip was swollen, my jaw swollen and both my eyes were black and blue. My mother told me that I wasn’t to go to a hospital, that my face would soon be OK. I couldn’t eat for almost a week.

That Summer I completed my Junior Cert and found a boyfriend named Declan. Although, at my young age, it’s fair to call it more puppy love than real love, but I cared about him and he minded me. I spent less and less time at home, we would hang out in his brother’s apartment or go to the pub. He always thought that my home life was strange and we rarely went to my parent’s house.

One particular evening Declan came to the house to the house to collect me. My father had started an argument with me in front of Declan. I think it was over something as trivial as a tea stain that had been left after a cup of tea that I had drank. He proceeded to thump me with full force into the face, fracturing my jaw. Declan took me to the hospital and later we moved into the spare room of his brothers apartment. He was appalled and horrified by what he had witnessed but to me it wasn’t abnormal. I was so relieved to be away away from that house. Within a couple of months of living in extreme poverty, the relationship between me and Declan had broken down, I was forced to go back home again.

One day, killing time as I so frequently did back then I was wondering around the city centre and strolled into Penney’s for a look around when I bumped into Anita. She told me that she was home for a few weeks and had been trying to contact me. She looked great. Stylish hair, clothes and she was curvier than I remembered. She invited me to her apartment for tea. I was completely taken aback-her apartment was modern and bright and
her fridge was full. I was so envious. To me her life had really gone full circle while mine had more or less remained the same. She invited me to come and stay with her for a while, that she wasn’t working but still had money left over from her inheritance to pay for her apartment. I was delighted. Although, I loved staying there, most evenings she would “pop out for a bottle of wine” or so take away. And not return for a couple of hours.

One evening, after a couple of beers she was slightly merry and decided to let me in on a little secret. She told me that she had been coming home from a bar one evening in a red-light area of the city when a number of cars were lined up and one of the occupants asked her “how much?” She told me that she didn’t have sex with him but that she had charged him sixty pounds for hand relief and that she charged, later that evening eighty pounds of oral relief. I remember laughing hysterically at this, because initially I didn’t really believe her. She told me that it was handy cash and she didn’t really view it as prostitution, because she didn’t have full sex with them. She asked me to accompany her that evening; I explained that I wasn’t going to do anything which she said was fine.

**LOSING MYSELF**

When it was dark enough, we walked down the street. I was gobsmacked at the amount of cars circling around us and that this was in fact a red-light district. Within a few minutes, BMW pulled up, Anita started talking to the punter. He told her that he wanted me but Anita explained that I didn’t really work. After negotiating a price, she instructed me to wait at the top of the laneway while she entertained the punter. In less than ten minutes she emerged, pleased as punch and said she wanted “one more”. I told her I wasn’t feeling well and wanted to go home, she wasn’t too happy but she was still on a high from her so called “easy money” that she just giggled and chatted the whole way home. I was in complete shock, but back at the apartment I laughed at how stupid and bizarre this man really was. She told me that with my looks that I could make a small fortune if I wanted. I laughed it off because a part of me still believed that this was something that she had done purely for kicks.

Within the next few evenings, she would leave at ten and return at 2am. She spent her days shopping for clothes, food, CDS, etc, she was earning a couple of hundred pounds per night. One evening, she came home, had a glass of wine and told me quite simply that it was time for me to “pay my way”. I had been aimlessly job-hunting for weeks but with no real qualifications and just a few months waitressing experience, it was proving difficult. She urged me to come with her explaining how easy it was. She explained that just one trick would really help her out with the rent and bills. So when it got dark we went for a quick walk. A gain there was an abundance of punters. We both got into a car. Anita confidently explained to the punter that it was my first time, that I was nervous and that she would be accompanying me, but that she would get out of the car as soon as he needed to get down to business.

So we drove to the nearby lane way and she got out. The punter was elderly and I explained that he wasn’t allowed to touch me but that I would perform hand relief for sixty pounds. He was quite and didn’t say much and following Anita’s advice, I requested cash up front, the transaction lasted a couple of minutes. I was glad when it was over. Although it was extremely brief, I think that from the moment that I had accepted cash for a sexual service something changed inside me, almost like crossing a line that I couldn’t go back. That line I still struggle with on a daily basis today.
Initially prior to turning that trick, I had been feeling quite hungry, but once the deed had been done, my stomach lurched and I actually felt quite sick. Anita was delighted that I was now a member of her club as she saw it. We purchased alcohol and fried chicken with gravy and chips. Returning to the apartment I couldn’t eat. I scrubbed my hands continuously to try to get rid of that soiled feeling that the punter had left, but that feeling just wouldn’t go away. Despite that, I was, in my innocence slightly giddy at the prospect of this fast cash. That was my initiation into street work. I worked the streets for approximately three months after that, maybe two or three nights a week and stayed with Anita until I had a deposit to get my own place.

My apartment wasn’t much to write home about, but at least it was a roof over my head and near my place of work-the streets.

At aged seventeen, I was still a minor and looked every inch of it, yet it never seemed to bother the punters, there was always an abundance of them happy to pay me. The one thing that struck me about the streets was the fact that I always felt cold. Cold and invisible and when I would pass a certain block of apartments and see lights on and occasionally see the shadows of its occupants, watching me or when a taxi would pass full of party-goers, I would catch brief glimpses of myself and become acutely aware of the fact that I was not in fact invisible that I was now a stigma, a walking talking breathing marginalized member of society, yet I was a child. I don’t actually remember owning any of my emotions back then, because in order to survive in this ugly sub-culture I had to disassociate myself completely from what I was doing.

HIGH CLASS PROSTITUTION.

Eventually, I moved on and got myself a job in a factory and distanced myself from Anita. I started to have a normal life, despite the fact that I felt tainted and angry all the time-my hangover from the street. I started to have friends, socialize, had a boyfriend and decided that I wanted more from life and for a while I genuinely did have all the happy things any young woman deserves from life. I saw Anita from time to time but neither of us really discussed the life on the streets. I was more than happy to leave it in the past.

I later found myself landing the job of my dreams. Although it was temporary I nearly ha to pinch myself on a daily basis to see if it was real. For the first time in my life I decided to forgive myself for the past, to move forward and be confident and proud of who I was. I travelled a lot, made a lot of friends and had a decent salary- somewhat of a striking contrast between life on the streets.

When my contract finished I was devastated, mainly because it was the first time me my life that I had felt a part of anything .So, unemployed again, I emailed a number of companies in the hope of finding a similar position..

One Summers Evening, I bumped into Anita again and we decided to go for drink.I remember confiding in her my frustration at the volume of cvs I was sending and not getting a response. She advised me that she had just started working for an escort agency and that she was earning over a thousand Euros a night, that there were lots of lonely men out there willing to pay for a girl’s companionship. To me it sounded great, you work four nights a week and that sex with clients was at her discretion. She took me to the internet shop and showed me the site her boss owned. At the time it was Irshescorts.com and, just as Anita had stated the site promised the companionship of beautiful young women and also that anything that occurred was coincidental and at the discretion of two consenting adults. I later learned that this was just a legal loophole for that site to exist and also that at one point this site was in fact attached to INLA and had been assisted by an inmate at an Irish prison.
with the assistance of a mobile phone. Not the fairy-tale the site presented itself with. The women on this site were glamorous, happy and appeared to be enjoying their work.

Anita gave me the phone number, my voice quivering when I rang, although, the voice of the receptionist on the phone was soothing and put me at ease, asking me for my height, weight, eye-colour and bust size etc. She gave me an address of where to go to the following day where I would be shown the ropes by a woman named “Abigail”. The next morning, I showered, dressed and packed a bag contain high heels, a black dress make-up and a hair straightener.

When I arrived at the apartment I was greeted like a long loss child by Abigail, who was warm and friendly to me but appeared to be arguing with a coloured woman over fifty euro. This woman didn’t have much English and she left the apartment. Abigail referred to her a greedy bitch advising me that this girl had made over four thousand euros. Abigail; was maybe in her forties but looked much younger as a result of cosmetic surgery. When she asked my age she looked surprised and rang the boss to tell him I looked about 17 and should advertise me accordingly. I then asked her about the dates, where I would be going what time my first ate was, how I should behave and if she though my dress was appropriate. Abigail looked a little confused and then laughed asking if I knew what escorting really was.

When I explained my understanding of it she laughed and took me to a balcony and pointed to a block of apartments across the road, advising me to play my cards right and that I could have a deposit for one of those in less than a month if I wanted. She told me that it involved having sex with clients, but that it was essentially harmless as I would be well paid and more or less in control of what took place. She even gave me a working kit which consisted of usual brothel material, condoms, lube, baby oil and underwear. When I asked her how long she had been working she advised she had been working since she was thirteen, that her partner and children knew and about it and were ok with it. Her phone rang from the agency; it was the boss informing her that a client was one the way. She told me to relax that she would see him hat I could relax, have a cuppa and familiarize myself with the apartment. When she returned she advised me that there was a client on his way to see me, that he was a regular and a gentleman.

When he presented at the apartment, I was surprised to learn that he was 27, a professional and paid for sex on a regular basis. He paid me €150 and took of his clothes and spent about 20 minutes chatting to me. At about half an hour into the encounter, my phone rang from the agency, the client advised that he want to stay for another hour and paid me €250. I couldn’t quite fathom why a young attractive seemingly nice man would do this. The sexual encounter itself was extremely brief and in no way aggressive.

Looking back now I think this particular client was sent deliberately so I would see how easy it all was, because what was to follow was not easy, or in any way humane.

Three clients came to see me that evening and I had the company of Abigail so the whole operation had the illusion of somewhat of a pleasantness about it.

The following morning Abigail had left a note for me instructing me to do certain things such as never answer the door unless I got a call from the boss or his receptionist “Carla”, always keep the sitting room door closed as this gave the illusion to the client that I had security present, tell them I was 17 and I was never to organise meetings outside work hour with clients. I was later to learn that a young woman spent two weeks in an apartment forced to work as a result of organising outside dates and that another received 20 stitches to her
face as a result and also a young coloured woman could not see out of one of her eyes after been beaten to a pulp as a result of seeing clients outside of work hours.

That Sunday, can only be described as an extremely ugly education. I started work at 11 am and finished at 2 am in the morning. There was very little of a time lapse between clients. At one point I remember explaining to the receptionist Carla that I needed some time so could shower and she told me that I didn’t have time.

It was quite simply an assembly line of men, one after the next happy to pay for sex from what they thought was a minor. Strangely, I don’t remember any of their names, faces or even how the conversations had gone. I had learnt to leave my emotions outside the apartment door with my soul and just my physical self inside the apartment. The following day was the same.

To my relief, the next day a young African woman named Maria presented for work, thankfully the receptionist had on this occasion made a mistake. I was more than happy to allow her to take over.

To this day that woman’s story still breaks my heart. She had been raped on 15 different occasions and saw prostitution as somewhat of a bonus, although she did sit me down and warn me that the people we worked for were not nice and that we did a very dangerous job. The next day was my last day and I can’t put into words he relief I felt. The “driver”, an evil sadistic brute of a man, whom I later learnt had spent time in prison for rape, came to collect my money. When I got home I counted mine. There was over three and a half thousand Euros there. I remember looking in the mirror and looking myself in the eyes. I was no longer the sparkly eyed bubbly young woman that had presented for work that Saturday, my eyes looked like Marias, no sparkle, wounded and hurt.

I drank two bottles of wine that night trying to figure out the undertakings of the previous few days, because it was all so surreal. I put the money away and cried and cried.

The following morning I got up and booked a flight and went away for a few weeks, my reasoning behind it at the time was to find myself, but in reality, I really just wanted to get away from myself. I drank wine by myself religiously and suffered extreme panic attacks and I also couldn’t wait to get rid of the money I had just made.

Upon my return I received a phone call from the boss; he was really pleased as I had done financially so well. He seemed extremely nice, chilled almost. I explained that although the money was great I didn’t think could do it again. To my surprise, he seemed to know more about me than what I originally thought—he knew I had worked streets. The way he saw it was this—I could earn a lot of money working from a secure, up-market apartment whilst keeping my anonymity and that he owned several business, that I could work someplace less busy if I wished. He also told me that I was lucky because he was frequently inundated with telephone calls from women from all over the world wanting to work for his agency.

He was correct about a couple of aspects of things, such as his multi cultural workforce and also the fact that this particular website would, if for example a punter rang looking for a girl in Newry or Galway, his receptionist Carla would answer and give you directions to the apartment. Basically, this man had brothels everywhere in the country.

I later learnt that although some women were there by consent, some were trafficked, given fake passports and fake promises and sent to work. The ones that originally consented found themselves in situations of where the
area of consent became extremely blurred. When describing consent, it's easy to think of as yes/no area, as definitive as black or white, however in the sex industry the only way to describe consent is the shades of grey in between, grey and murky.

The strange part about prostitution, although it is extremely lucrative, most of the women never make it rich, either through addiction, or quite simply getting rid of their earnings as soon as they are made. I was a combination of the two.

Stupidly, I went to work for a few days in another apartment and certain factors became very apparent. This was extremely well organized. Somebody different would collect money and that the four day shift pattern was essentially to avoid garda detection. Initially I was treated like royalty, because I was young and Irish, I made a lot of money.

One weekend, as I hadn’t worked in a number of weeks funds were low and I decided to give the boss a ring. He put me to work in the apartment I had initially worked from. I knew this place was an assembly line of punters so I had to prepare myself mentally.

At this stage my personality was really beginning to change. I was anxious, depressed, moody and suspicious of everyone in my path. I bought two bottles of wine. My plan was to drink them after work, however as soon as the assembly line of punters started I knew I needed an anesthetic. I had seen a couple of clients and already I was drained in every sense. There was maybe an hour of quietness where I filled myself glass after glass of wine. To my surprise I topped it off fairly quickly and lay down on the bed. The warm haze of alcohol hit me; I closed my eyes and then sweet oblivion.

Then the banging, extremely loud banging and shouting “Open the fucking door”. It took me a few minutes to realize where I was; when I did he was already in the hallway looking at me. Blue piercing eyes. “Who the fuck are you?” I asked, because of the shock my voice was barely an audible croak. “What fucking happened to you?” “I fell asleep”. “Look at your phone.” Oh shit shit shit! There were 36 missed calls. He searched every room in the apartment and finally made his way to the kitchen, where the wine bottles were. I was rooted to tether spot. “Hide the bottles, he instructed, the boss is coming, and you have some explaining to do”.

Within seconds 2 men entered the apartment, searched the rooms and came back to the sitting room where I was instructed to sit on the couch. From the corner of my eye, I saw them open a black hold all bag and produce bundles of cash, neatly stacked in bundles, where the two men negotiated together. There must have been at least ten grand there. One of the men collected his share, winked at me, calling by my first name and left the apartment. The other man, the boss and the guy with the blue piercing eyes sat opposite me and I was instructed to strip to my underwear. I did exactly as I was told, the sheer terror I was feeling indescribable. “What the fuck were you doing for four hour?” The boss asked. I was aware of the guy with the piercing blue eyes watching every inch of my flesh. “I fell asleep”, I mumbled. Then he quite cheerily asked me where his money was and asked if I wanted to count my share. I told him that I didn’t and he responded “you weren’t fucking getting it anyway.” He took the money and explained to me that as a result of this evenings escapades I would continue to work three more days at this apartment and another four in another extremely busy apartment to make up for loss of earnings. He also informed me that the apartment was watched and not to bother contacting Gardai as I would be very surprised as to who exactly he had on his payroll. I wasn’t to move or there would be serious reprucussions. The full reality of what I was really involved in winded me at that
very moment. He then informed me that the reason he hadn’t “split your pretty little face” was because I had been so honest with him.

So the next morning, I got up and prepared myself for the minefield that was to be my Sunday. I remember looking around that apartment that initially had felt so safe and welcoming and couldn’t believe I had been so gullible. I remember standing on the balcony, watching the watery sun break through, the cars passing by, the chatter of voices below and it struck me how normal the world was below, yet, here I was in this apartment that had now become my prison. I wanted to scream from the top of my lungs, but my assembly line of punters was awaiting.

Knowing that consent was not an option I felt even more repulsed. I didn’t say anything to the punters just took their money and carried on in autopilot, but it must have been clear to each one of them that I was petrified. Approximately 15 men came to the apartment that day and out of them all, there was only one with the humanity in his heart to see I was frightened. He left the money and the apartment disgusted and promised not to tell the boss.

Unfortunately, the next client wasn’t quiet as nice. He informed me that he wanted to perform a particular sex act, one that I hadn’t even performed with a boyfriend. I told him that I didn’t do that particular act. He aggressively informed me that the receptionist had advised that I did this and since he was paying, he was entitled to do as he wished. I closed my eyes and allowed my soul to leave my body, find a safe place in the corner of the room and began doing algebra equations in my head. I felt no part of this repulsive act. The sound of oil passing through the radiators snapped me back to the room and it was over. He was finished. The next three days were the same, each as busy as the previous. To this day I’m shocked that I managed to leave that apartment with ounce of my sanity intact, because the option of throwing myself from the balcony was appearing more enticing. It was hell.

The following day, the driver was at the apartment to collect both me and the money. I was drained. He informed me that the apartment I was due to work in had been raided and I was to book a hotel room. After seeing four punters, the hotel rang informing me that I had to leave as I had “too many guest” visiting the room. I rang the bosses’ receptionist who gave the address to a nearby hotel. The boss then rang telling me to hurry the fuck up, when I tried to explain what had happened, he cut me short screaming “Do you think this works like fucking Disney land?” “Be in that hotel and ready to go in ten minutes or this time when I send my men to you, I’ll send them to take your life”.

When I arrived at the hotel the cheerful young man at reception informed me that there were no room available yet. Trembling I burst into tears and offered to do the house-keeping on the room myself. The young man told me to take a seat in the bar, have a drink and that he would be with me in a few minutes. I ordered a wine and tried to ignore the missed calls on my phone. The young man from reception appeared and asked if I was in some kind of trouble. It all came out of my mouth what was happening through hysterical sobs. He told me that they would stay with me until the guards arrived to make sure I was safe. Within a few minutes two plain clothed detectives arrived and took me to the station. They appeared to be familiar with my boss and his operation, they warned me that it was too dangerous for me to take public transport and told me not to answer my phone, they drove me home.
The following morning, when I turned on my phone, as expected a torrent of abuse was awaiting. One in particular which springs to mind was one from his receptionist, telling me how much she would enjoy cutting me to pieces as soon as she found me. I rang Anita, who was now living in Belfast, packed a bag and just went. She was now working for a new agency in Belfast. I had enough money to lie low so I wasn’t interested within a few weeks money was low and I decided to return home and found a job in a bar. Every time the door opened of the pub, I was convinced it was my previous boss or one of his henchmen; I was a complete nervous wreck.

MOVING ON, OR SO I THOUGHT...

Like with everything in life, no matter how painful the experience, the world doesn’t stop turning and life goes on with or without you. Eventually, despite never having counselling for the most horrific chapter that was my life, I continued with life. I re-educated myself and I also became a mother. I remember once taking my child to the beach and feeling so grateful just to be in the presence of this beautiful person who loved and needed me for everything that I was.

A couple of years had passed since my experiences in Prostitution and I had myself convinced that I would never have to revisit it. However, circumstances proved me wrong. Last Summer I found myself having to return for a brief period. This time I worked for myself, taking out an add on escort-ireland. My add was glamorous and enticing and my photos attractive. However the relity of my situation was not. This time I had to go back as a grown woman, eyes open to my profession and reopen those ugly wounds from the past. My clients ranged from Doctors, barristers, accountants a social worker and even a mental health professional and also a judge-a legislator. The everyday people everybody respects. These men were educated not stupid or blind to the reality that is prostitution, yet they don’t care. Escort-ireland has this warped sordid sub-culture glamorized to the point that to the untrained eye shows the world of prostitution as a sanitary and safe place where everybody is having harmless fun.

I’m out of Prostitution about a year now, but the sad part is I don’t know if it every really leaves you, that part of yourself that you have to shut down completely in order to survive is the part of yourself that you have to rediscover in order to really heal again, which is a long and excruciating road, which I’m currently taking with a qualified therapist on a weekly basis. Then there’s the transition period into having a normal life which for me is extremely difficult as I find myself faced with the same issues that led me there in the first place such as poverty. Sometimes prostitution becomes somewhat of an institution to the women who find themselves in its constraints that it is quite simply because you lose so much of your sense of self in it that I found myself alluded into thinking I wasn’t worth anymore.

THE NEED FOR LEGISLATIVE REFORM

Until 2007, it was not illegal to traffic another human being in Ireland for the purposes of Commercial Sexual Exploitation. Thankfully that law has changed. International police operations know as Operation Gladiator saw the imprisoning of two of my previous bosses Carla aka Shamiela Clarke and TJ Carroll. Hundreds of young women were trafficked and forced into situations similar to my own, although the full brutality of their operation was never really highlight in the media. Unfortunately, the pair were charged with money laundering
when the pair were eventually caught up with in Wales and served three year sentences. A much lesser conviction than what was deserved.

In Ireland, to date, nobody has yet been charged under the trafficking act, however, The Irish constitution itself explicitly recognises the unenumerated right to bodily integrity, given current legislation which penalises the women in this business rather than the purchaser it certainly begs the question if this is a right or just an aspiration, particularly if you consider that the purchase of sex from a minor or another vulnerable class of society is just the click of a button away?

Prostitution will always exist in society, I am staunchly aware of that fact, however I am not willing to accept that the purchase of sex from somebody with little or no option does not equate as rape. The legislation on rape in Ireland always has and still remains to be draconian, the rights of the perpetrator being favoured over the rights and dignity of the victim, which must, in a court of law be “proved beyond a reasonable doubt”. It is the victim that must prove their case. Out of every hundred rapes in Ireland, less than three will see a successful prosecution.

It is easy to ignore or perhaps blame the women involved in this industry; however, it is imperative to highlight the role of the purchaser in this. Without the purchaser, the sex industry could not survive, which leads me to conclude that it is the purchaser that should instead be prosecuted instead of the sex worker.

Escort-Ireland is a site hosted from the United Kingdom advertising sex for sale in Ireland. Beside the profile of each woman is a list of her “favourites” the sex acts that she is willing to perform in exchange for money. Operation Gladiator, although in my opinion, served two perpetrators of horrendous crimes with lenient sentences, it still highlighted that with the work of the Garda Síochána and the Uk Police, that it is possible to trace and convict criminals with a simple IP address from a computer and a mobile number. If so, why are the perpetrators of Commercial Sexual Exploitation allowed to continue?

[name removed]

August, 2012
Why I Still Love Men

I was sitting in the passenger seat of my friend’s parked car recently while she ran into the shop to buy a few things. She was gone a good while and I sat there, watching the moving scene through the windscreen.

A man walked by with his little girl, who looked to be about three. She wanted to walk on a slightly raised area of cement beside some steps and a look of distress crossed his features before he steadied her with one hand and held her with the other one more tightly. He kept a firm grip of her as he carefully navigated her along the area of cement, not breaking his concentration for anything, until she was back down (about one foot lower than she had been) on solid ground beside him. Then he was able to relax again and she said something to him that I could not hear. That caused his face to break into the most beaming and adoring smile, as if he’d heard the most profoundly endearing comment ever uttered. The look on his face made my eyes fill with tears.

I’m not talking about the sort of misty barely-there tears we feel when we’ve just witnessed something moving. I’m talking about the sort of stormy tears that threaten to spill down your face immediately if you don’t choke them back; the sort of tears that signal a full-on emotional onslaught. It was so sudden, it shocked me.

I had to get myself together because, as much as I love and trust the woman I was with that day (who is one of my closest friends) I just didn’t feel comfortable with the idea of her arriving back at the car with her diet coke and tea cakes and finding me a blubbery emotional mess. I think, more so, I didn’t feel comfortable with how I would explain myself, with how I would communicate what was wrong.

What was wrong had nothing to do with a man loving his little girl; what was wrong was what it, by contrast, called up for me, and that was just too big a conversation for that time and place.

Apart from being embarrassing it makes you feel very vulnerable, to have to explain the enormity of the distinction that is so often and so easily called to your mind; this understanding of the gentle pure love males have for the females close to them, their daughters, sisters, mothers, girlfriends and wives, juxtaposed with the contempt so often expressed for the females not close to them – the woman walking alone in public, or
unaccompanied in a bar, or most potently of all, the malignant and abundant contempt for the woman in a brothel.

So when I see an example of male love for women and girls, along with uplifting me and moving me emotionally, and making me think how this is the way it should be, it also calls to mind that contrast, and it hurts me. It hurts me dreadfully.

I’ve had the same emotional response many times. Any time I see a man put his arm protectively around his girlfriend, or hand her a tissue for her snotty nose, or kiss the top of her head without giving a shite who’s looking, I feel the same way. I smile, and feel a warm gush of inner contentment. It provokes a feeling of love, this evidence of male love that exists in the world; but it is quickly and violently followed by a hammer in my heart. It is the brutal thud of its opposite – the understanding of male hatred.

Let me be clear about this: prostitution has to do with killing. It has to do with killing the human spirit, and beyond that, it has to do with getting off on it. It is evil, and when we see evil, when we live evil, I believe it is very important to name it. Evil can obscure itself very easily when we do not assign it its true name.

The evil of prostitution has been so thoroughly obscured that it is even taught in universities as a ‘sex positive’ autonomous choice. What a load of bollocks. I could put a gun in my mouth tomorrow and blow my own brains out; that is surely an autonomous choice – it doesn’t mean there’s anything positive about it. But I will leave the lies and the stupidities of ‘sex positive feminism’ to another day and get back to the subject at hand:

I was invited to attend the conference that launched the Turn Off The Red Light campaign in Buswell’s Hotel in Dublin last year. I had just been told that it was a conference, it hadn’t been mentioned that the press would be there, so I got a very big shock when I arrived to the scene of cameras rolling and flashing lights. It was a shock because something in me told me that I was supposed to speak, but how was I supposed to do that with every newspaper and TV station in the country present?

I was a little late and there was only one seat left in the back row. I sat down and felt a bit bad about grabbing the last seat when people, some much older than me, started filling up the standing room all the way out to the hall, but I was wearing ankle boots with a five inch heel so I decided I’d have to live with my own conscience.
The first thing I noticed about the panel was that they were all men. That kind of knocked the stuffing out of me. I was really surprised and listened very intently to hear what they’d say. As they introduced themselves it became clear that they were all men who were high-profile in one sense or another in Irish life; a poet and prose writer (Theo Dorgan), a playwright and theatre director (Peter Sheridan), the chair of the Board of Directors at the Immigrant Council of Ireland (John Cunningham), chairperson of Ruhama (Diarmuid O’Corrbui), CEO of Bernardos (Fergus Finlay), General Secretary of the largest craft union in Ireland, the TEEU (Eamon Devoy) and General Secretary of the Irish Congress of Trade Unions (David Begg).

Something happened which thoroughly moved me. They spoke, one after another, about why prostitution and trafficking should have no place in this country. Men, seven of them, high-profile men at that, talking one after another about what I’ve always thought, what I’ve always known. Probably because some of them were a good bit older than me I was reminded of the protective presence I used to feel when I was with my Dad, who died not long before I went on the game. More tears to struggle with. Another lump in the throat.

When they’d all done speaking the meeting was opened to questions and discussion and around a dozen people spoke. A woman stood near me with a microphone on a long extendable arm that she held up to anyone who’d talk, and when anyone did, the cameras pointed right at them.

The standing area behind me was filled with people, with politicians among them, all the way out and halfway down the hall and I had noticed that when anyone behind me spoke several people in front of me would turn around to look at them.

When the man chairing the meeting asked if there were any more questions before he wrapped the meeting up my heart gave a violent thump, but there was no way I could walk out of there if I didn’t do what needed to be done, which was to provide the voice of prostituted women, which was about the only relevant voice that was missing from the room.

I stood up and said I had something to say but asked the reporters to not photograph me and to point their cameras away. The first thing I said after that was that I was a former prostitute; it was at that point that every head in front of me, about a hundred of them, turned to look. I don’t know how I didn’t keel-over with the sense of vulnerability and exposure, and I was told afterwards that my voice shook audibly when I first spoke.
I went on to say I was glad that prostitution and trafficking were being dealt with together, and that I felt they should continue to be addressed together, as the routes into prostitution and trafficking are only two different routes that bring women to exactly the same place. I then explained that it had been family dysfunction followed by homelessness that had brought me to prostitution at fifteen years of age, and that there was no difference to be found in two groups of women selling their bodies because of sets of circumstances that were beyond their control, just because those circumstances were different. I felt a very great weight of relief when I sat back down, that I’d done what I had to do and that it was over.

Immediately after I sat down one male politician behind me seemed moved, frustrated, and there was angst in his voice when he said “we need to do something about this situation – now!” I was approached by another politician afterwards, and by the chairperson of the conference, who told me that I had made “the most significant contribution to the meeting”. Both were encouraging, both were respectful, and both were men.

After I left Buswell’s I walked to nearby Stephen’s Green and sat on a bench looking at the flowerbeds and popped the Xanax a friend had offered me the night before “for the sake of your nerves”. I was glad I had it, because my nerves were in shreds, although my anxiety was strangely mixed with a feeling of peace that day. I was anxious because of the deeply traumatic part of my past I had just visited so publicly, and I was at peace in another sense because I had been exposed to something I find wonderfully comforting: the gentle and sincere humanity of men.

When you have spent seven years being exposed to the worst of what men have to offer it will leave you dreadfully traumatised, and consequently hurt, embittered and angry. But we are multifaceted beings, thank God, and no one feeling remains constant and ever-present in our minds. A person might reasonably ask: why do you still love men? Because I can still see their humanity shining out of them, and I still draw comfort from it. That’s why.

[name removed]
Prostitution and the Commercial Value of Youth

People who argue that prostitution would be free of coercion, trafficking, the exploitation of minors – and everything else that prevents it from being some kind of all-above-board consenting-adults-only autonomy party – are people who ignore one vital aspect of prostitutions reality. It is the commercial value of youth.

Just as in some actual industries, like modelling or professional dance, youth is highly prized among attributes. Unlike modelling or dance though, youth in prostitution is prized far above beauty and the fluidity of movement. In order to be most highly in demand in prostitution, you don’t need to be the prettiest flower in the field; you just need to be among the youngest. And what you can or cannot do with your body is irrelevant; it just matters that it hasn’t been on the planet for very long.

One of the commonest questions that comes through on any brothels phone line is ‘What age is the youngest girl you have?’ I could not count the times I have been asked that question, and I defy anybody who has answered a brothels phone to tell the blatant lie that it is not the commonest question they’ve been asked too.

The commercial value of youth is so profoundly built-in to prostitution that women routinely lie about their age in order to generate more business. The clients know this, of course, and even as women are shaving a few years off clients are adding a few on. ‘I’m twenty-six – I’ll tell him I’m twenty-three’ / ‘She’s twenty-three? – that means she’s twenty-six’.

Nobody’s fooling anybody here, and the only thing the whole pathetic charade is any good for is the revealing nature of what’s going on behind the pretence. What it reveals, of course, is that men who buy bodies for sex usually want to buy the youngest body they can find.

Last year it was reported to the BBC that prostitutes as young as thirteen were working the streets in Swindon, in the English county of Wiltshire. “Come here at the weekend and you’ll get 13-year-old girls to 19-year-old girls out here”, one prostitute told reporters.

When I read reports like these I just sigh. It tires me to pre-empt the shock people will express. It tires me to imagine that shock, whether it is genuine or not, because if it is genuine then that proves we have a long way to go in educating people about the reality
of prostitution, and if it is not, well then, here is yet more in a tsunami of evidence that there are those who do not want the reality of prostitution understood.

Whenever any evidence of teenaged prostitution is revealed the pro-prostitution lobby move immediately to put forth the preposterous assertion that this town is somehow different or unique. The attitude is always either ‘thirteen-year-olds, good Lord, who ever heard of such a thing?’ – or ‘thirteen-year-olds, good Lord, we could clear up this situation if we legalised prostitution!’ – as if somehow the demand for adolescent bodies would vanish if only we’d make the sale of adult bodies okay!

Usually, however, they will simply deny that adolescent prostitution is widespread, or that adolescents are much in demand in the first place.

‘How do we know this is true?’ will come the query from the pro-prostitution lobby. It is not a query in the genuine sense of the word. A real query seeks an answer. This query seeks to obscure the same answer it purports to be seeking.

This will seem strange and confusing to some people. It is neither strange nor confusing to me; I’ve been exposed to the tactics of the pro-prostitution lobby for too long to be surprised or confused by these sorts of seemingly tangled and nonsensical tactics. What people need to understand is that they are not nonsensical. These are obscurest policies and they are purposeful and predictable, and when you understand their purpose you will have no problem predicting them too.

Their purpose is consistently the same; it is to deny and refute the sick and twisted nature of what actually goes on in prostitution. The truth they don’t want you to know is that men who pay for sex will most often opt to pay for a fifteen-year-old over a seventeen-year-old, a seventeen-year-old over a nineteen-year-old, a nineteen-year-old over a twenty-one-year-old, and so on and so forth.

Now, let me be very clear about this – I will be called a liar for having asserted the above. It will be said that I am trying to demonise punters, that I am telling lies about their preferences and proclivities. I wish I was. In my first year in prostitution, when I was fifteen-years-old, I was used by countless hundreds of men; I truly couldn’t say how many. I saw up to ten men a day so you may do the maths for yourself (the thoughts of doing that calculation disturbs me). As I stated in my Examiner article back in February, men were so obviously aroused by my youth it made them climax very quickly, so I soon learned to tell them how old I was in order to shorten the whole ordeal. I made it a policy;
it was one of the first things I said when I got into the car – not that I needed to bring up the subject because it was usually one of the first questions asked of me.

In all those hundreds of men, one man, just ONE, turned his van around and brought me back to where he’d found me.

So yes, those who advocate for legalised or decriminalised prostitution will do their damnedest to obscure the truth about the high commercial value placed on young bodies in prostitution, all the while squawking ‘Where’s the evidence? Where’s the evidence?’ – like some kind of belligerent and demented parrot, with all the repetitiveness and severe comprehension issues you’d expect. All beak and no brains, in other words.

This is to be expected; of course the pro-prostitution lobby don’t want you to know that girls who are post-puberty by only a year or two are routinely lusted after, sought out, highly prized and then abused for enough years ‘till they’ve lost much of their commercial value. If that was widely known, it would do a great deal of damage to the autonomous, sexually-liberated, empowerment fantasy depiction they are consistently trying to peddle.

As for ‘Where’s the evidence?’ – I don’t need to ask that question. When I was a fifteen-year-old prostitute I was FAR more in-demand than I ever was as a twenty-two-year-old, even though at twenty-two I was slim, pretty, and an extremely youthful woman; but therein lay the problem. I was a woman.

There is huge emphasis placed on the commercial value of youth in prostitution. ‘The evidence’ is in every brothel and red-light zone in the land, and I know that because I lived the evidence.

I know it because I was the evidence.

[name removed]
Residues of the Past

I had to go into town yesterday and, being as it was such a lovely day, I didn’t want to take the car. I got off the dart at Connelly and walked through the station with the rest of the crowd until I was out in the Aungier Street sunshine. Then I walked around by Bus Aras and up to the junction where Gardiner Street meets the back of the Custom House. I was standing there alongside several other people, all of us waiting to cross the road, when I glanced over my shoulder at the buildings behind me. That’s when it arrived – the memory I’d really rather not have.

When I was fifteen and only a short time on the game I was taken back to a hotel room in one of those buildings and used sexually by an Asian man. I remember how insistent he was that he would not use a condom, and how insistent he was about everything else. I remember the bullying nature of the encounter, how his hands seemed to be everywhere at the same time and how he continually shoved his fingers into my vagina and anus although I repeatedly asked him to stop. He was a thirty-something man. I was less than half his age.

I was so innocent and so unused to what I was doing that I’d forgotten to ask him for the money first, and of course after he came he maintained he hadn’t got it. He told me to wait for him in MacDonalds on Grafton Street at two o’clock the next day, where he would pay me.

So there are two memories here, meshed into one, and for me somehow the second is more pitiable than the first. It is the image of my fifteen-year-old self waiting in MacDonalds for a man to show up so that I could buy myself a burger meal. Needless to say, I never got to eat a burger meal that day.

Every time I have turned that corner I have looked up at those buildings, but it was only yesterday that I was able to face the full reality of what caused me to turn and look. Up to now I had always snapped my neck away, pushed away the memory, refused to be submerged beneath the pain and the shame of being used like that, being made into nothing like that; and I had certainly not allowed my mind to wander back to sitting in MacDonalds on Grafton Street, feeling like the world’s emptiest, loneliest fool.

I was able to do that yesterday. I was able to let my mind go there; to remember being a hungry young girl who felt like a fool. I think I could do that because I know now that I
was not a fool. I was just a young naive homeless teenager, with nobody to love her, and who it had never dawned on to love herself.

There are residues of the past. In a city as small as Dublin, they are everywhere you go. Yesterday I let the past settle into me in a way I’ve never done before. Maybe it’s because now I know the day would come when that girl would get a book deal, and have something to say about the past.

[name removed]
A Personal Refutation of the Concept of Choice

Many people think of choice as I might have done, had I never worked as a prostitute. For many, choice is something perceived akin to standing in front of a deli-counter. Choose this, choose that, pick out your preferred option. The men who choose which woman they’d like to fuck as they stare at those lined up for their consumption understand choice in just this way. Their concept of choice is rooted in the privilege of a genuine alternative. Their concept of choice itself is limited.

Choice does not always present as balanced; it does not always offer a different-but-equal alternative. When I think of my choices there were simply these: have men on and inside you, or continue to suffer homelessness and hunger. Take your pick. Make your ‘choice’.

People will never understand the concept of choice as it operates in prostitution until they understand the concept of constraint so active within it. As long as the constrained nature of this choice is ignored it will be impossible to understand the pitiful role of ‘choice’ for women within prostitution.

I’m going to reveal something very personal now, and I’m going to do that simply to illustrate how warped the concept of choice was in my circumstances. I had a conversation recently with my sixty-something aunt who is currently spending a few months visiting Ireland, after having lived forty years in America. She reiterated something I’d heard many years ago in our family. It was a conversation my paternal grandmother had with the psychiatrist treating my parents in the local mental hospital. My grandmother (and this was before I was ever born) had made an appointment with the doctor, very upset as she was that my manic-depressive father and his schizophrenic girlfriend had just announced their intention to marry.

She wanted to know what could be done. How could this marriage be stopped? How could these two very unwell people be allowed to go ahead and marry? The doctor told her that mental illness could not be used as a reason to curtail a persons civil liberties and that was his view of the matter. But what, my grandmother wanted to know, would happen to any children born into that union?

I wish I could go back in time and give my grandmother a hug for having the compassion and the foresight to think of where that situation would leave us. She was right to
worry. It left us in state care, one after the other. And as a young teenager it left me homeless, hungry, and prostituted, in that order.

The constraints of my own choices began even before I did. And if we were to shift this situation into the deli-counter analogy, there is no young girl standing there deliberating on what choice to make. There is only a young girl standing waiting for what’s already been selected and pre-wrapped for her, and she can take it or leave it. Those are her options. That is her ‘choice’.

[name removed]
Dear Honorable Ladies and Gentlemen:

I am writing on behalf of Survivors Connect Network, made up of 52 trafficking/prostitution survivors from seven different countries, including Ireland. Our network was born in February 2012 when after much searching several survivors found each other. We quickly grew to 52 members, 24 of whom are leading nonprofit organizations devoted to educating the public about trafficking and helping girls and women leave prostitution.

Decriminalizing sex-buying or pimping doesn't prostitution safer. Instead it makes women in the sex trade more vulnerable to violence and coercion because it enforces the power of the pimps and punters that prey on them. Like the vast majority of sex trade survivors, the fifty-two members of Survivors Connect Network know all too well that prostitution is not work, but sexual violence and abuse. As such we have voted unanimously to support SPACE in their efforts to secure the three principles outlined below:

1 - The criminalization of sex-buying.

2 - The non-criminalization of those who sell sex, and

3 - The pledge of real, practical and workable supports for women exiting prostitution, including education, training, housing and counseling etc.

Researchers have found that women in prostitution suffer from the same level of trauma as the victims of state-sponsored torture. This comes as no surprise to those of us who've endured the sex trade. Prostitution is a strange, brutal country with its own rules. Here violence and coercion are as common as the Irish rain and violence just an occupational hazard. Personally, I have permanent injuries to my neck and spine as a result of my pimp and punters trying to strangle me. I can't have children. But I've been so much luckier than most. Two of my friends from the sex trade were murdered, and one died of AIDS. One killed herself because she couldn't take another hour of it.

One of the bitterest parts of being on the game is feeling society acquiesces to your plight. You're trapped by the invisible walls of a gulag in plain sight. People see you and know you're a prostitute. Rich, powerful men -- the ones who run things -- know they can do things to you because there's no one in your life to protect you. It's inevitably clear to you that prostitution has been chosen for you by your city and country, since they see what's happening to you but they don't do anything to stop it.
When you see young lovers kissing on the sidewalk your throat turns to cinders. You long for that sweet balm, but that will never be for you.

I was in sex trade for ten years. To cope with it, I memorized poems and held them in my mind like a Rosary. Then during the hours the men were on top of me or worse, I could live in those lines, in those words. One of my favorite lines was from Yeats's "Crazy Jane on the Day of Judgment": "All would be known or shown if time were but gone."

The night would come, and one night would become many, and I'd be beneath man after man after man as my throat ached, wondering: "How can I survive it? Why should I endure."

And those words of Yeats would sound in my mind, "All would be known or shown if time were but gone."

Till I was comforted.

My eyes have filled, and I've come to the place in this letter where I want to think you, the good men and women of the Joint Oireachtas Committee on Justice, Equality and Defence, for caring enough to hold these hearings on prostitution.

"All would be known.... All would be known or shown if time were but gone."

I am one and yet I am many, and I can feel all of us who are and were trafficked and in prostitution -- beneath man after man after man in despair -- wondering, "Why should we endure?"

I dare to hope that perhaps the members of SPACE, and the 52 members of Survivors Connect Network, and I endured so we could reach you with our plea: Stop the sexual violence of prostitution by criminalizing sex-buying while non-criminalizing the selling of sex and pledging real, workable supports for women exiting prostitution. So these women can come back to life.

Perhaps we endured so we could reach you with our words, so you would understand.

So you would use your power as a healing balm.

And take these important steps to end the suffering of prostitution.

Yours,

[name removed]
Survivors Connect Network
August 24, 2012

TO: The Honorable Members of the Joint Committee on Justice, Defense and Equality

FROM: Kathleen Barry, Ph.D. Sociologist and Professor Emerita

I am submitting to the Joint Committee on Justice, Defense and Equality a summary of the findings of my 40 years of research and global policy development on prostitution. I am proud to send you my submission through SPACE (Survivors of Prostitution Abuse Calling for Enlightenment) for it is comes from the actual victims and survivors of prostitution and therefore is empowered to act on their behalf. I am especially in concert with the goals of SPACE in seeking criminalization of prostitution customers with support programs for women in prostitution. SPACE is part of a global campaign I am spearheading to have prostitution and all forms of sexual exploitation recognized by the United Nations as a violation of human rights. The Convention Against Sexual Exploitation which we are proposing will, when adopted by the United Nations, come back to each country as a treaty for their signature.

I have had a privileged first look at the manuscript of Rachel Moran's deeply honest and courageous forthcoming book, *The Prostitution Experience*, which I am convinced every reader with a conscience will complete as I did with the conviction that 'no human being should ever have to go through any of this again.'

When I was in Ireland at University College, Dublin on a Fulbright and lecturing in Dublin and around the country on prostitution and the criminalization of customer, I remember seeing women on the streets and watching people walk by them thinking to myself, "they don't see you." Our societies have swallowed the myth that prostitution exists because some women were made for it, an argument used for centuries to explain slavery and other forms of dehumanization.

I hope to learn that Ireland will join those other advanced European countries committed to abolishing prostitution both legally and in practice. Thank you for the opportunity to share my research with you.
August 22, 2012

Submission to the Joint Committee on Justice, Defense and Equality

From: Kathleen L. Barry, Ph.D., Professor Emerita

On: Prostitution Legislation in Ireland

In accordance with your guidelines I am providing you with the following information:

i) **INTRODUCTION, MY EXPERTISE:** I am an American sociologist and Professor Emerita. I have conducted research, written and been engaged in national and international policy-making on prostitution and trafficking for prostitution for over 40 years. My first scholarly, global study of prostitution, *Female Sexual Slavery*, (1979, New York University Press, 1983) has become a classic text on the subject and was followed by *Prostitution of Sexuality: The Global Exploitation of Women*, (New York University Press, 1995) a study that shows how prostitution has become normalized. The latter book was published while I was on a Fulbright appointment to University College, Dublin during which time I lectured throughout Ireland on prostitution. This book was the first to formulate and propose state policy to criminalize customers of prostitution while providing support services for women and children leaving it. I worked with UNESCO to develop new global human rights law, the Convention Against Sexual Exploitation which I am currently involved in preparing to bring to the United Nations Commission on Human Rights for their consideration. This work is the basis of what has become known as the "Nordic Laws," which began with Sweden's criminalization of customers in 1999. I founded the international human rights NGO, the Coalition Against Trafficking in Women.

ii) **FACTUAL INFORMATION:** Here I am summarizing 40 years of research and work in policy making but if it is of use to the Committee, I will make the books I have written on which these findings are based available to you immediately. Contact information below.

a. The act of being bought to be used by the customer for sex is deeply harmful, psychologically and physically to those purchased. A research note here:

b. For these reasons, in my research I interviewed women who had left prostitution either by escape or by just walking away because when anyone is in a state of ongoing victimization, they usually justify their condition. This is seen over and over again in domestic violence programs where women who are too frightened or not yet ready to leave proclaim that they choose to stay, they love their husbands, that he is really a good man and he did not mean it. In my research I have seen the same phenomena in
prostituted women. When they leave it and have the safety and distance to try to understand their experiences, they often tell a very different story. In all the interviews I have done and cases I have followed, I’ve never heard one woman who has left prostitution say she liked it.

b. Women report the need for drugs and alcohol to get through a night of being bought by customers creating addictions

c. Self-worth is severely diminished, and psychological problems result

b. Prostitution exists because of and is driven by male market demand, therefore

c. Under the above conditions the distinction between "free" and "forced" prostitution is a false one. The only "freedom" that exists in prostitution is the choice to purchase.

d. Likewise, considering the sexual abuse inherent in buying another human being to use her or him for sex, there is no reason to draw a line between "child" and "adult" prostitution. One would then be left with the moral dilemma of deciding on what date it is acceptable for this human being to be purchased to be used for sex.

e. Eliminating the market (customers, clients, punters) eliminates

a. Pimping and trafficking

b. Sweden has seen prostitution rates cut in half since they criminalized prostitution customers

f. Women and children who enter prostitution without coercion from pimps or traffickers generally are not acting on their own free will as long as 90%+ of women in prostitution have, as children, been subject to sexual abuse and violence in their homes, schools and other places of care

g. Legalization of prostitution functionally turns the state that legalizes it into proxenetism or pimping by establishing conditions for prostitution to occur and by earning taxes from the prostitution of women and children

a. Legalization of prostitution creates a haven for trafficking in women and children. In countries like the Netherlands, it has been shown that as soon as they legalized prostitution, traffickers shifted to commodities who are primarily women from SE Asia to the Netherlands even though that country toughened its laws against trafficking.

b. The purported health standards in legalized prostitution cannot be met. Weekly or monthly checks of prostituted women for STDs provide no health protection as the very next customer after the test can be carrying it.

c. Although all women in prostitution are in unsafe conditions when they are with customers, the claim that legalized brothels makes it safer is erroneous. If a customer intends to further harm the human being he purchases for sex, he will do it in a way that will prevent her from ringing a bell or calling for help. Further, if women complain, they are most often reprimanded and threatened by brothel owners driving away customers.

d. Prostitution of women in particular is an external labor force that eases the pressure on the paid labor force by reducing the numbers of women in it. Prostitution supports sex discrimination in the workplace as it is where
women without income are diverted to. Justifications for prostitution often have behind them the unwillingness of states (such as Thailand and the Philippines, for example) to actively open the paid labor force to women. As such, prostitution is an aggravated condition of women's inequality in the labor force.

iii) **RECOMMENDATIONS**  
From my scholarly study of prostitution and female sexual slavery and based on more than three decades of policy development as an international human rights activist, I conclude that:

a. The single question before the government of Ireland today is whether or not it will allow men to continue to have the right to buy sex off of or on or in the bodies of other human beings, whether or not those purchased consent, whatever the age of those persons.

   i. How the commodity purchased was made available is only relevant if she/he was trafficked. I assume that Ireland, like most countries, already has laws against pimping and procuring as well as trafficking.

b. If the government agrees that buying a person for sex is a violation of her human right to dignity, autonomy, physical and mental well-being as stipulated in the International Declaration of Human Rights, then there is no alternative but to criminalize those who buy sex on human beings.

c. **Clearly my urgent and strongest recommendation is that the government follow what has become known as the "Nordic model" and rank itself among the most advanced nations in the work in abolishing prostitution. BUT CRIMINALIZING CUSTOMERS IS ONLY ONE HALF OF THE NECESSARY ACTION.**

d. Any country that criminalizes customers without providing supportive services that restore victims of purchasing customers to have programs to help them restore their health including alcohol and drug rehabilitation, personal and group counseling, job training and access to the paid labor force.

e. Ireland has experience and expertise in addressing childhood sexual abuse from policy-making to support services for victims. Therefore there is a wealth of experience that can be drawn upon in creating and providing supportive services for those whose daily life is being paid for to be sexually abused.
Curriculum Vitae

KATHLEEN L. BARRY, PH.D.

Date: Fall, 2011

Address: [details removed]

EDUCATION:

<table>
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<tr>
<th>Year</th>
<th>Degree</th>
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<tr>
<td>1982</td>
<td>Ph.D.</td>
<td>Doctorate in Sociology and Doctorate in Education</td>
<td>University of California, Berkeley</td>
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<td>1972</td>
<td>M.Ed.</td>
<td>Sociology of Education</td>
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<tr>
<td>1968</td>
<td>B.A.</td>
<td>English</td>
<td>Wayne State University</td>
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</tbody>
</table>

PROFESSIONAL EMPLOYMENT HISTORY:

2003 - Present  Professor Emerita
The Pennsylvania State University

to 2003  Professor, Sociologist
Department of Human Development and Family Studies
The Pennsylvania State University

1988  Associate Professor
Department of Human Development and Family Studies
The Pennsylvania State University

1981-1988  Assistant Professor of Sociology
Brandeis University

1980-1981  Instructor of Women's Studies
University of Massachusetts, Amherst

1979-1980  Research Analyst
University of California, Berkeley

1972-1974  Women's Advocate, Associate Professor
California State University, Sacramento
Department of Behavioral Sciences Education

1971-1972  Women's Studies Instructor
Wayne County Community College, Detroit

1970-1971  Federal Program Developer
            Detroit Public Schools

1968-1970  County Education Coordinator
            Office of Economic Opportunity
            Pontiac, Michigan

Before 1968  Elementary School Teacher

CURRENT PROJECTS AND BOOKS IN PROGRESS:

Empathy training workshops: Unmaking War: From Empathy to Action
Women's World's Conference 2011, Ottawa, July 4 and 6, 2011
Ongoing programs being offered.

**Spontaneous Self--Women, Identity, and Spirit** - qualitative research study of the social
construction of singleness in never-married, childless women. This work explores the
development of women's identity and finds a spontaneity in making life choices. It presents a
model for understanding the interaction of human spirit and identity development when the
effects of gender expectations are reduced.

Globalization, The Troubles and Family in Northern Ireland: Intergenerational research that
involved interview women, their mothers and their daughters over three generations to
understand Women's Subjective Experience of Family Change in Northern Ireland during
“The Troubles.”

DISTINGUISHED VISITING SCHOLAR, HONORS, AWARDS:

Visiting Professor, The Queen’s University of Belfast, 1998.

**Faculty Associates Award**, for outstanding service to students, Student Affairs and

Visiting Professorship, The Queen's University of Belfast, 1997.

**International Achievement Award**, Pennsylvania State University, 1996.

**Fulbright Award**, Lecture/Research, Ireland: University College, Dublin, January-June,
1995.

**Visiting Scholars Lecture**. Seton Hill College "Are the Gains Women Have Made Too Little

Distinguished Visiting Professor, Eastern Illinois University Summer Session, 1987. Theme on Bicentennial of the American Constitution, "We the People." Seminar: "Women are our People: Rights and Protest from Susan B. Anthony to the Year 2000."

1986 Wonder Woman Award in category "Women Helping Women" in recognition of the research, writing, and international projects developed to address the issues of Female Sexual Slavery.

OTHER PROFESSIONAL APPOINTMENTS AND GRANTS:

Advisory Board Member, SAGE (Standing Against Global Exploitation), 2011 -


Professor-in-Charge, Honor's Program, Human Development and Family Studies, 1993-2002

Chair and organizer of the meeting of international human rights experts to draft new Convention Against Sexual Exploitation, New York City, October, 1992, invited and funded by UNESCO.

Chair and organizer of "International Working Group of Experts" on Exploitation and Prostitution. Coalition Against Trafficking in Women with UNESCO. Penn State, April 8-11, 1991.


Member, Delegation of Faculty to Vietnam seminar. "Vietnam in Historical Perspectives." Council on International Educational Exchange, Ho Chi Minh City and Hanoi.


Research Initiation Grant, The Pennsylvania State University, for a pilot study of the social construction of women's singleness at midlife, 1989-1990.


Faculty Development Award, Gerontology Center, Penn State University, for research expenses for pilot study of the social construction of women's singleness at midlife, 1989-1990.


Invited lecturer, Mediterranean Women's Studies Program, Spetses, Greece, June, 1986.

Chercheur-associe, Centre Nationale del la Recherche Scientifique (CNRS). Laboratoire d'anthropologie social, directed by Francoise Heretier, President, College de France. Fall semester, 1986. Research on theory and methods of women's biography.

Sachar International Fellowship Award for biographical research on Marcelle LeGrand-Falco conducted in Paris, Fall, 1986


Mazer Fund, Brandeis University, to complete research on the biography of Susan B. Anthony, 1983.

MacDowell, invited writer in residence to work on biography of Susan B. Anthony, 1983.

Founder, International Feminist Network Against Female Sexual Slavery. Developed and organized this Network after raising $80,000 from the Ministries of Women and Development of the government of the Netherlands, the Ford Foundation and other foundations. Prepared and chaired the first international meeting held in Rotterdam, April, 1983.

Radcliffe Research Fellows Program, funding for travel to conduct research on biography of Susan B. Anthony at the Schlesinger Library on the History of Women in America, 1981.
PUBLICATIONS:

BOOKS

Barry, Kathleen L.


Becoming Single: A Memoir in progress


Chinese edition, 2000


Paperback reprints:


Foreign editions:


International Feminism: Networking Against Female Sexual Slavery. New York: International Women's Tribune Center, 1984. (with C. Bunch and S. Castley, eds.) (Papers from the Global Feminist Workshop to Organize Against the Traffic in Women, Rotterdam,
The Netherlands, April, 1983.)

Foreign editions:


JOURNAL ARTICLES AND BOOK CHAPTERS

Barry, Kathleen L.


"Female Sexual Slavery: Understanding the Dimensions of Women's Oppression." Human Rights Quarterly. (Spring, 1981):44-52. (Indexed in Inventory of Marriage and the

OTHER ARTICLES:


REVIEWS:


"Biography IS Society." Review of Biography and Society, Daniel Bertaux, ed., and In
Search of Mind, by Jerome Bruner, Qualitative Sociology, (Spring, 1987).


LECTURES & PROFESSIONAL PAPER PRESENTATIONS--by Kathleen Barry:


Keynote Lecture - Nordic Conference on Prostitution, Helsinki Finland, May, 1995

"Prostitution of Sexuality," Lecture given at University College, Dublin, University College, Limmerick; University College, Galway, Queens University, Belfast - Spring, 1995.


"Sexual Exploitation: A Human Rights Violation." Keynote Address, Sexual Violence
Awareness Week, University of Wisconsin, Madison, September, 1994.


"Susan B. Anthony."

"Prostitution of Sexuality."


Keynote Speech to annual conference of Minnesota Coalition of Sexual Assault Services, Minneapolis, May, 1991.


"May I Wish You Serendipity: Unexpected Findings in Studying the Life of Susan B. Anthony." Campus lecture, Bucknell University, Knowledge and Information Series, December, 1989.


"From Sexualization of Society to Commodification of Women." Paper presented to the Graduate Committee on Theory and Culture of the School of Liberal Arts, New York University, December, 1987.


"From Women's Biography to Rewriting History." Invited lecture, Boston College, April, 1987.


"Susan B. Anthony: A Life for the Love of Woman." Invited lecture, University of Massachusetts, Amherst, April, 1986.


"Pornography: The Ideology of Cultural Sadism." Invited lecture, University of Massachusetts, Amherst, April, 1985.


"Female Sexual Slavery." Invited lecture, Yale University, April, 1983.


"Pornography and Sexual Violence." Invited lecture, Boston University, February, 1983.


Executive Summary

of the Formative Evaluation of an Interagency Initiative working to deliver quality services for Victims of Sex-Trafficking in Ireland.

DIGNITY

working to deliver quality services for victims of sex trafficking

An initiative of Dublin Employment Pact and the Immigrant Council of Ireland

CARRIED OUT IN ASSOCIATION WITH:

Baggot St. Women’s Health Project & Anti-Trafficking Unit (HSE), Sonas Housing, the Garda National Immigration Bureau, the National Anti-Trafficking Unit of the Department of Justice and Law Reform, Legal Aid Board, Ruhama and FÁS.
Dignity

Executive Summary of the Formative Evaluation of an Interagency Initiative Working to Deliver Quality Services for Victims of Sex-Trafficking in Ireland.

Written by:
Dr. Jane Pillinger
Ms. Monica O'Connor

Dr. Jane Pillinger has a PhD in European Social Policy from the Department of Social Policy and Sociology, University of Leeds. She is an independent social policy analyst.

Monica O'Connor is an independent researcher and policy adviser on violence against women. She is currently in receipt of a scholarship from the Irish Research Council for the Humanities and Social Sciences (IRCHSS) to pursue doctoral research on prostitution and trafficking in Ireland.

Funded by: DAPHNE FUND, European Commission.
The Commission is not responsible for the use of any information contained in this report.

## Executive Summary Contents

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9. Conclusions
1. Trafficking in Ireland and the origins of the Dignity project

The Dignity Project (2009-2010) was funded under the EU Daphne programme to develop a model of interagency working to deliver best practice approaches to addressing trafficking of women for sexual exploitation in Ireland. It was established by Dublin Employment Pact and the Immigrant Council of Ireland in response to the increasing incidence of trafficking for sexual exploitation in Ireland and an identified need to improve the coordination and integration of services for victims of trafficking\(^1\).

2. Aims and objectives of the Dignity project

Aims of the Dignity project

- To contribute to efforts to combat trafficking for sexual exploitation;
- To raise awareness and understanding of the problem among EU member states and to improve services to victims of trafficking for sexual exploitation.

Objectives of the Dignity project

- To examine models of effective inter-agency practice in service provision to victims of trafficking for sexual exploitation;
- Identify and disseminate good practice between partners, in order to mainstream models of inter-agency work with both statutory agencies and NGOs;
- To support improved delivery of good practice services for victims and vulnerable groups (women in prostitution), thereby contributing to improve efforts in combating trafficking in women and children for sexual exploitation across the EU.

3. Overview of the formative evaluation

Two evaluators were appointed to carry out the formative evaluation of the Dignity project. This was carried out through an evaluation of partner roles, project activities and transnational visits and overall project outcomes.

The objective was to highlight best practice approaches and the how the learning from the project could be mainstreamed.

An interim report was produced at the end of Year 1, which provided a framework for the development of the Dignity project in the second year\(^2\).

4. The Irish policy framework and response to trafficking for exploitation

The adoption of the UN Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, and the Council of Europe (CoE) Convention on Action Against Trafficking in Human Beings, has led a comprehensive State response to trafficking.

In 2008 an Anti-Human Trafficking Unit was established in the Department of Justice and Law Reform. The National Action Plan to Prevent and Combat Trafficking of Human Beings in Ireland 2009-2012 sets out the measures that the government is putting in place for victims who are trafficked for both sexual and labour exploitation. The Plan covers prevention, protection of victims, prosecution of traffickers and child trafficking, and by the end of 2010 two-thirds of the 144 actions has been implemented or significantly progressed. The Plan has led to the creation of a specialist Counter Human Trafficking Unit of An Garda Siochana, under the Garda National Immigration Bureau (GNIB), a dedicated Anti-Trafficking Team in the Health Services Executive (HSE) and a dedicated team in the Legal Aid Board. A High Level Group and six Working Groups, one of which is on trafficking for sexual exploitation, have also been established. The Plan has led to a process for referral and service provision for Victims of Trafficking (VoT). Referrals to these services take place after a VoT is referred to the GNIB. There is no integration of these provisions to allow for a response to and service provision for women in prostitution, many of whom are migrant women or who are VoT. While the Garda Siochana has established a separate Organised Crime Unit with a specific remit on organised prostitution, the legislative and policy remit of trafficking rests within the policy framework on immigration, within the GNIB.

\(^2\) The Interim Dignity evaluation report can be found on http://www.dublinpact.ie/dignity/PDF/DIGNITY%20INTERIM%20EVALREPORT%20March%202010.doc
One of the issues raised in the Dignity project was the growing national and international evidence of the link between trafficking and organised criminal prostitution networks. Another core issue is that the focus on trafficking as an immigration policy issue results in gaps in provision for women who are internally trafficked for prostitution or in providing services for women who are EU citizens.

Currently services for VoT, including legal assistance, health, counselling and accommodation services are conditional on a VoT reporting a case to the GNIB. It is only then that they can avail of the services and supports.

The first report issued by the AHTU Summary Report of Trafficking in Human Beings in Ireland for 2009, reported that 66 potential and suspected VoT came to the attention of the GNIB, 49 of whom were adults and 17 were minors. Of these cases just over 80% were under investigation. In 10 of the 66 cases a 60-day Recovery and Reflection (R&R) permit had been granted, and of these 6 were VoT for sexual exploitation. Forty of the 66 potential or suspected VoT were in the asylum process during this time.

Between November 2009 and December 2010, 39 cases of potential or suspected VoT were referred by the GNIB to the dedicated team in the Legal Aid Board for legal assistance. In 2010, 36 referrals were made, of whom 24 were VoT for sexual exploitation.

Up to December 2010, 56 referrals were made HSE dedicated Anti-Trafficking Team for support and assistance, including care plans.

5. The Dignity partners

All partners brought different and valuable organisational roles, capacities and expertise to the inter-agency partnership established in Dublin. The following statutory agencies and NGOs made up the Dignity Dublin interagency partnership:

- Dublin Employment Pact
- Immigrant Council of Ireland
- Garda National Immigration Bureau (Counter Human Trafficking Unit - CHTU) (in an observer capacity in Year 1)
- Anti-Human Trafficking Unit (Department of Justice and Law Reform) (in an observer capacity)
- Women’s Health Project (HSE) (Year 1 and 2), Anti-Trafficking Unit (HSE) (Year 2)
- Sonas Housing Association
- Ruhama (joined at the end of Year 1)
- Legal Aid Board (joined at the end of Year 1)

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3 Written Answer to Parliamentary Question issued by Lucinda Creighton, No 585, Minister for Justice and Law Reform, 12 January 2011
4 Ibid
In addition, the project had three transnational partners which included:

- Glasgow Community & Safety Services (Glasgow City Council, linked to the TARA project, Scotland)
- Klaipeda Social and Psychological Services Centre (NGO, linked to a municipal inter-agency partnership, based in Klaipeda, Lithuania)
- AE Madrid City Council and APRAMP (City Council and NGO, Madrid, Spain)

Transnational study visits and seminars took place with each of the partner projects in Year 1, including a Dublin transnational seminar. In Year 2 an additional study visit was organised to Sweden to examine the outcomes of the legislation on demand for prostitution for its applicability in an Irish and other partner context.

More detailed information about the Dignity project and profiles of the partners can be found in the full evaluation report. [http://www.dublinpact.ie/dignity](http://www.dublinpact.ie/dignity)

### Overview of the organisation and management of the Dignity project

A Project Coordinator was appointed to oversee and manage the project, and act as an independent Chair of the Dignity project groups, and was assisted through administrative support part funded by the Dublin Employment Pact. The project was managed through the following groups:

- A Dignity Steering Group (Immigrant Council of Ireland, Dublin Employment Pact and the Project Coordinator).
- A transnational Steering Group (three transnational partners, the Dignity Coordinator, the Immigrant Council of Ireland and Dublin Employment Pact).
- In 2010, following a successful application for funding to FAS, a pre-training pilot project was established with an Advisory Group (Dublin Employment Pact, Ruhama, FAS, Department of Social Protection and the Dignity Coordinator) and a Steering Group (Ruhama, Dublin Employment Pact and the Dignity Coordinator).

### 6. Summary of project activities

The Dignity project ran for two years 2009 and 2010.

Year 1 focussed on two specific objectives:

- The development of an inter-agency partnership;
- The establishment of a Dignity model of practice for service provision, informed by learning and good practice from transnational study visits, research and models established elsewhere.
Year 2 focussed on four main areas:

- Consolidating and extending the Dignity partnership and through this the learning between transnational partners;
- Acquiring funding for the development and piloting of a pre-training project for victims of trafficking for sexual exploitation, funded by the national training agency FAS;
- Developing greater understanding of the role and impact that legislation on demand could have in an Irish context;
- To disseminate the learning from Dignity to a wider network of agencies and service providers in Ireland.

All of the actions identified in the original Dignity plan were implemented in full. The main actions can be summarised as follows:

**Dublin Dignity Inter-agency partnership**

- The Dublin Dignity inter-agency partnership brought together statutory organisations (AHTU, GNIB in the Year 1, Legal Aid Board and the HSE) and NGOs (Immigrant Council of Ireland, Dublin Employment Pact, Sonas Housing Association and Ruhama). Thirteen inter-agency meetings were held in Dublin during the project (seven in 2009 and six in 2010).

**Steering Committee meetings**

- Regular Project Steering Committee meetings were held in Dublin and five transnational Steering Group meetings were held with the transnational partners.

**Transnational study visits, seminars and bi-lateral staff exchanges**

- In 2009, four transnational study visits, which included a two-day seminar and visits to service providers, took place to examine models of service provision in Scotland, Lithuania and Spain. A Dublin transnational seminar provided an opportunity to share models of practice and disseminate the findings to a wider group of statutory agencies and NGOs.
- In 2010, a study visit to Sweden examined the outcomes of the Swedish legislation to criminalise the buying of sex. All of the Dignity partners participated in the transnational study visits and seminars.
- In 2010, four Dublin-based Dignity partners were involved in bi-lateral staff exchanges with their counterparts in other countries.

**Conferences and seminars**

- The two-day transnational seminars that were held in Scotland, Lithuania, Spain, Dublin and Sweden provided an exchange of information from a wide network of national statutory agencies and NGOs engaged in providing services to VoT. This provided models of good practice and examples of inter-agency cooperation.
In Dublin the dissemination of information and good practice models took place through four conferences: a conference to launch the project held in Dublin on 16 June 2009, the ‘Dignity and Demand’ conference held in Dublin on 5th November 2009, a conference hosted by the Lord Mayor of Dublin on 25 May 2010, and the final Dignity conference held in Dublin on 7 February 2010. Good media coverage was given to these events, which contributed to the visibility and awareness of the project nationally.

Regular information dissemination of the Dignity project took place through presentations to and meetings with national and international agencies, papers presented to international conferences, and a final briefing for European organisations, NGOs and MEPs in Brussels in February 2010.

Communications and information activities

A Dignity project website, information leaflets translated into the languages of the project’s transnational partners and regular briefing documents enabled there to be a regular flow of information of the Dignity project’s activities. This information was also disseminated to a wider network of agencies in Ireland and through the transnational partner countries.

8. Key outcomes of the Dignity project

The five main outcomes of the Dignity project were:

• An inter-agency partnership involving statutory representatives and NGOs, that took a wide remit to examining the context, policy framework and service delivery responses to trafficking for sexual exploitation;

• Sharing of learning and best practice models of legislative and service delivery models and in the light of international obligations, to inform the development of services in Ireland, and the wider EU partners;

• An open forum for discussing the wider context of and models of service responses to both prostitution and trafficking for sexual exploitation through research, transnational study visits and seminars, thereby contributing to the fight against trafficking EU-wide;

• An opportunity for partners to learn about their roles and remits, and thereby facilitate and inform referral mechanisms and service responses and thus contributing to the fight against trafficking.
• Generation of media debate and discussion. Considerable media debate was generated through various Dignity project events in Ireland, creating awareness of the issues. More notable media reactions were obtained on the occasion of the formal launch of the initiative in Dublin, the transnational conference Dignity & Demand at the end of Year 1, and more recently at the Graduation ceremony of trainees of the additional Dignity-FAS-Ruhama pilot training. Significant media debate was created as a result of the Dignity partner trip to Sweden, that prompted parliamentary questions and broader media debate on possible reform of the relevant legislation that affects demand for services of trafficked people.

a) Dublin Dignity inter-agency partnership

The inter-agency partnership formed an integral part of the project and a new form of intervention based on inter-agency working. This was a significant achievement. The process of partnership working led to the sharing of experiences, learning of partner organisational roles and functions, and through this the development of a Dignity inter-agency model of practice. This outcome led to significant relationship building and shared understanding between the agencies represented on the partnership and an appreciation of the constraints experienced by some partners, as well as the opportunities for providing a more integrated range of support services to victims of trafficking. The inter-agency meetings were also an opportunity to review and evaluate the learning from the transnational visits, to discuss in an open way issues related to referral, victim identification, support services and learning from best practices.

One of the key objectives of the Dignity partnership was to develop a draft Memorandum of Understanding and a model of service provision that can enhance the quality and the access to integrated services that are appropriate to the needs of victims of trafficking. This was a significant element of the work of the Dignity project and led to concrete outcomes and a formalisation of the roles of partners under the AHTU (Anti Human Trafficking Unit in Dept of Justice & Law Reform).

In Year 1 the Dublin partners discussed and drafted a Memorandum of Understanding, which informed the first National Statement of Roles and Responsibilities adopted under the coordination of the AHTU in Year 2. Also during the first year, an inter-agency model of service provision was proposed by the Dignity partners. In Year 2 this was further developed under the map of provision established by the AHTU, to which all Dublin partners provided recommendations. The Dignity inter-agency group realised that it was important for the AHTU to take the lead in developing the map, rather than finding themselves in a situation where there were two separate maps; one from the Dignity group and one from the AHTU.
b) Transnational study visits, seminars and bilateral exchanges

The five transnational study visits organised in Scotland, Lithuania, Spain, Ireland and Sweden were attended by all Dublin partners and transnational partners. Separate reports and an evaluation of each transnational study visit were carried out.

Scottish transnational study visit, 11-12 May 2009

The visit focussed on the legislative context in UK, the Glasgow Community & Social Services Project, established by the Local Authority and Police services in Glasgow (in partnership with the Domestic Abuse Advocacy Service and TARA project). Key learning was gained about their Inter-agency model of working, the cooperation and relationship between the police, the relationship between the police, local authority and NGOs, the provision of support services (including legal services and accommodation) and the development of protocols for victim identification and risk assessment.

Lithuania study visit, 24-25 August 2009

The study visit examined the legislative context in Lithuania, the Lithuanian model of service provision; the inter-agency partnership of statutory and non-statutory organisations established by the Klaipeda municipality; the legal, criminal and prosecution services; and the Klaipeda Social and Psychological Support Project. Key learning included the breadth and coordination roles of the municipality led inter-agency group, the model of social and psychological support services, and the approach in a country with a different profile of trafficking.

Spanish study visit, 8-9 October 2009

The study visit examined the legislative context in Spain, the specific programme of ‘routes out of trafficking’ established in Madrid by AE Madrid City Council and APRAMP. As well as learning about the legal, criminal and service framework for VoT, the key learning included the role of APRAMP in providing outreach and support services for VoT, the work in partnership with the municipal employment agency to develop training and employment opportunities for women in prostitution and VoT, and the role played in coordinating support services and inter-agency work.

Irish transnational study visit, 3-4 November 2009

The Irish transnational seminar provided an opportunity for national and transnational partners to learn about Irish legislation and service provision on trafficking, and to engage in bi-lateral discussions on victim identification and policing, legal services and the role of housing, outreach and support services. A public conference held the day after the transnational seminar, entitled ‘Dignity and Demand’, provided a forum for an open discussion about trafficking in Ireland, the role of the Dignity project, and the role played by legislation tackling demand for sexual services, with particular reference to Sweden.
**Executive Summary**

The conference also provided an opportunity to disseminate the work of the Dignity partnership in Ireland to a wider network of statutory and non-statutory agencies across Ireland and also to begin a discussion about the role of legislation in controlling the demand for prostitution, as exemplified by the Swedish model.

**Swedish transnational study visit, August 2010**

The final transnational study visit took place in Sweden in response to an interest from partner organisations to find out more about implementation and impact of the Swedish legislation to criminalise the purchasing of sex and control demand. The backdrop to this was the Swedish government’s high-level Inquiry in 2009\(^5\), which concluded that the legislation had contributed to the reduction in demand for prostitution and trafficking, and a high level of public support for the approach taken.

**Bi-lateral staff exchanges**

In 2010 staff from the Immigrant Council of Ireland, the Anti-Trafficking Unit of the Legal Aid Board, the Anti-Trafficking Team in the HSE and Sonas Housing Association participated in staff exchanges to their counterparts in Glasgow and London. The staff exchanges enabled the Dublin partners to engage in more detailed discussions about service provision and to learn from the models developed. This was found to be particularly valuable learning for service provision in Ireland. The NGOs and statutory agency staff found the learning from close cooperation with statutory agencies in processes of identification, legal assistance and specialist accommodation for VoT, to be very valuable.

**c) Dignity/Ruhama pre-training pilot project**

The Dignity project secured funding from the FAS Social Inclusion Unit in 2009 to provide a pre-training support programme to victims of trafficking and women exploited in prostitution. The delivery of training to this vulnerable group supports the Irish State’s obligation under the CoE Convention on Action against Trafficking in Human Beings and the UN Palermo Protocol on Trafficking in Persons, which both contain provisions on the delivery of support and training to victims of trafficking. The Irish National Action Plan also includes measures to assist the reintegration of suspected victims into the labour market.

The Dignity project contracted Ruhama, which has over twenty years experience responding to the needs of women in prostitution and trafficked women, to develop and deliver the programme. In recognition of the trauma experienced by VoT a specialised model was developed to provide wrap around support, pre-training and introductory training experiences in ‘soft’ skill development and some FETAC accredited basic skills training, in order to

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prepare participants to be ready to access mainstream and community services in training, education and employment.

Twenty-eight women participated over the year long programme receiving an average number of 241 hours made up of individual tuition, class hours and individual support. The women were overwhelmingly positive about their engagement in the programme. They consistently spoke about having a sense of trust again and that, for the first time, they can imagine a hopeful future. They felt the programme had been highly successful in identifying their needs and delivering appropriate training and support. The key issues they highlighted in interviews and focus groups were the importance of the one to one support Ruhama provided in building trusting relationships, which they recognised as critical for surviving the trauma and breakdown of trust they had experienced; participation in group work with women who had similar experience of exploitation; beginning to make friends and breaking isolation. Assertiveness, including Personal Development programme such as the Steps programme were seen to be vital to building confidence, self esteem and communication skills, while practical classes such as English and computers increased capacity for further training and education. Finally, the career path planning has already enabled many women to access further education and employment.

d) Policy outcomes

One of the objectives of the Dignity project has been to influence policy, particularly in the development of appropriate services and protection for victims of trafficking in line with international best practice. In particular, the Project opened up a space to discuss issues of demand as part of an overall strategy to eliminate trafficking for sexual exploitation in Ireland. This was important in the development of the State’s framework on trafficking as set out in the Anti-Human Trafficking Action Plan National Action Plan to Prevent and Combat Trafficking in Human Beings in Ireland, 2009-2012 (Department of Justice and Law Reform, 2009).

The Dignity project was instrumental in informing a Private Member’s Motion from the Fine Gael Party that was before the D_il in November 2009, which called for a debate on trafficking for sexual exploitation and the sex industry in Ireland, and the provision of appropriate accommodation and support services for victims. In Year 2, following the transnational visit to Sweden to examine the Swedish legislation on demand, a report on the visit was submitted by the AHTU to the Minister of Justice and Law Reform Mr. Dermot Ahern T.D. In a response to a Parliamentary Question in the D_il, Mr Ahern confirmed that, "I have asked the Attorney General to examine the report and requested his views on the legal and constitutional implications of introducing such a ban here".

During this time the Immigrant Council of Ireland had been instrumental in establishing and leading a national campaign on demand, to which the Dignity Project was associated, supporting legislative action based on the Swedish
model. This provided valuable learning for the Dignity Project partners, which also looked at similar campaigns to address demand in Scotland and England.

9. Conclusions

- The Dignity project has met all aims and objectives set and the methods of working and structures have worked well. This is particularly evident for the NGOs participating in the project, while statutory partners found the learning of best practice models and of partner roles to be particularly valuable. The inter-agency group was seen by all partners to have provided a good opportunity to share information, learning and approaches, as well as contribute to the emerging model of service provision.

- All partners were of the view that the Dignity project had either strengthened or reinforced their own organisation’s role and activities on anti-trafficking. Relationship building, information sharing and better coordination between partners was crucial to the building of a model of service provision. For the NGOs the formalisation of these relationships through the Memorandum of Understanding (MOU) among the Irish partners has been an important step forward to building a lasting inter-agency partnership.

- The cooperation that has been achieved has enabled services to be coordinated more effectively. The formal and informal relationship building has been crucial to ensuring that there are systems of referral and contact between the partners. Overall, all partners saw this as a real added-value to their work.

- The Dignity/Ruhama pre-training pilot project was an important achievement for the project, particularly as there is now a model in place that can be mainstreamed.

**Good practice models and transferability of learning**

The following examples of good practices have been identified from the Dignity project’s transnational study visits, seminars and activities and have provided important learning for the services provided by Irish and transnational partners:

- Common systems for reporting, for example, in carrying out risk assessments and psychological reports.

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The application of the assessment procedure and National Referral Mechanism developed in Glasgow could have valuable lessons for Ireland and other countries, and particular in promoting NGO and police cooperation.

Models of inter-agency cooperation and systems for victim identification and referral, found in Scotland, Lithuania, Spain and Sweden, that enable coordination between agencies in providing integrated services to both women in prostitution and VoT. For example, the model of social and psychological support services provided by the Klaipeda Social and Psychological Services Centre, showed how an NGO can take a lead role in integrating services for women in prostitution and VoT. The TARA project in Glasgow showed a good practice model for integrating services for women in prostitution and VoT in the NGO sector, with good cooperation between police and statutory authorities in victim identification and support.

The learning from the Spanish ‘routes out of prostitution’ training project showed how outreach, risk assessments and safety planning, and coordination between training and other support services can be provided. This was particularly useful in informing the development of the Dignity/Ruhama pre-training pilot project.

In Madrid and Glasgow the provision of emergency accommodation / shelters specifically for victims of trafficking was seen to work very well, particularly as these models placed VoT in housing with social supports. Linking into specialist accommodation in the domestic violence sector was welcomed by NGOs in Ireland as a possible model that could be replicated.

The Swedish approach demonstrated the effectiveness of legislation criminalising the purchasing of sex in tackling prostitution and trafficking, which has been important to reducing the demand for trafficking overall. There is learning from this approach and from the success of the awareness raising campaign carried out in Sweden.

10. Recommendations

a) Continue Interagency Cooperation

There is wide support for the continuation of an inter-agency partnership approach as a basis for ongoing learning and the continued development of best practice models. The interagency approach should be mainstreamed and extended on a national basis.

The Map of service provision drawn up by the AHTU indicates the complexity of multi-agency involvement in trafficking cases. It is critical that there are structures of coordination and cooperation in place to support front line responders who will be navigating the mechanisms and referral processes with VOT. There is a real potential to develop an inter-agency case management approach amongst the service providers.
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Dignity Project – A Formative Evaluation

- This should incorporate continuous training for statutory and non-statutory agencies as provided for under the CoE Convention, and a programme for the dissemination of the learning and good practices established under the Dignity Project.

- Funding will need to be sourced for an independent Chair and administrative support for continued inter-agency cooperation, and to develop new ways in which this could take place, for example, regular discussion forums, roundtables or seminars.

b) Improved processes for identification and protection of VOT

- There is a need to further develop and enhance the identification process, establish a clear timeframe and boost transparency in the decision-making process. This requires clarity of procedures in the issuing of R&R and Temporary Residence Permits (TRP), and to put in place alternative acknowledgements for identified victims who are not granted R&R/TRP due to the fact that they hold another type of permit, or do not have a pending application for asylum or ‘humanitarian leave' in the State.

- Clarity is needed in relation to disclosure of reasons not to afford Victim of Trafficking status to potential VoT. An independent review mechanism should be put in place for women who are not formally identified as VoT but believe they are a victim of this crime in Ireland.

- NGOs have a key role to play in the identification process, as seen in the model established by the Dignity partner in Scotland, and as exists in other countries. The CoE Convention, the OSCE guidebook and the TIP indicators established by the US Secretary of State, all state that NGOs should play a continuous role in both the identification process and in providing support for VoT.

c) Legal Rights

- There is an urgent need for all potential Victims of Trafficking to have access to immediate and early legal advice. The provision of such advice should not be made dependent on cooperation or contacts with the GNIB (Garda National Immigration Bureau). Full legal representation must be offered to suspected VoT cooperating with the authorities in the investigation and/or prosecution of trafficking offences; this should also include the provision of legal assistance in relation to applications of non-prosecution and compensation.

- The legal protection of VoT offered in Ireland has to be brought in line with the CoE Convention in relation to the granting of R&R permits, which must be granted without prejudice to any asylum application made by the person concerned. Currently, the linking of the above processes results in different levels of assistance, and could potentially disadvantage those VoT who have also sought asylum in the State,
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- Longer term solutions are needed for VoT who have cooperated in criminal investigations and/or prosecutions, or who are too vulnerable, traumatised or endangered to be returned home; this should include the introduction of special humanitarian permits.

- VoT should have the legal right to a Temporary Residence Permit on the basis of humanitarian needs as provided for in the CoU Convention. Currently, VoT will first receive a notification of intention to deport before they can make an application for permission to remain on humanitarian grounds.

d) Enhance the role of service provision and front-line responders

- Specialised accommodation should be available for all potential VoT as the Reception & Integration Agency (RIA) is not always appropriate or safe for VoT. International best practice and learning from the transnational partners is that specialist violence against women service providers have a key role to play in providing safe accommodation, with safety planning, risk assessment and care planning built into the support provided. VoT should be able to access specialist accommodation, irrespective of their legal status.

- There should be a further development and continuation of education and training programmes, and progression routes for VoT and women exiting prostitution, such as those developed in the Dignity/Ruhama pilot project. Again access and progression to mainstream education and training programmes should not be conditional on legal status. It recommended that partnership be established with service providers outside of Dublin to replicate and mainstream the pilot programme.

- The Dignity project and international evidence has highlighted links between prostitution and trafficking. Therefore it is recommended that a review of the needs of all women in prostitution accessing the Women’s Health Project (WHP) and Ruhama should be carried out in order to identify needs in relation to access to legal advice, care planning, access to health, counselling, exit routes, long term support services, and accommodation.

e) Continue to inform policy developments

- There is a need for systematic collection of data and the documentation of cases studies in order to complement the valuable data collected by the AHTU. This will help with the monitoring of the implementation of the mechanisms, decisions and short and long term outcomes for VoT.

- There is a need to continue to develop and monitor the Memorandum of Understanding and protocols, in order to develop and progress effective interagency working and best practice service provision.

- It is recommended that the services currently provided for VoT be extended to include women who have been exploited in prostitution, as
international best practice demonstrates the need to integrate policy measures in relation in prostitution and VoT.

- An integrated national policy framework and legislation should be introduced for tackling demand for prostitution, given the clear evidence of how effective the Swedish approach has been. Legislation in line with the Swedish approach should be introduced and there should be a national education and awareness campaign on reducing the demand for prostitution, especially given its link to trafficking for sexual exploitation.

f) Monitoring and Accountability

- An independent National Rapporteur should be appointed with statutory powers to request information from the police, the immigration authorities, social services and NGOs and to report to the Minister for Justice & law Reform and the Irish Parliament, as required under the CoE Convention.

- An anti-trafficking and prostitution monitoring group, made up of NGOs and human rights agencies should also be established along the lines of the UK Anti-Trafficking Monitoring Group, to inform and support the work of the Rapporteur.

- Under the 2011 review being carried out by the AHTU all legislation and administrative procedures in place need to be examined to see if they are ‘fit for purpose’ in relation to the rights of VoT. This would assist in the preparation for the CoE monitoring provision mechanism established under the Group of Experts on Action Against Trafficking in Human Beings (GRETA), due to visit Ireland in 2012.
GLOBALISATION, SEX TRAFFICKING AND PROSTITUTION:
THE EXPERIENCES OF MIGRANT WOMEN IN IRELAND

SUMMARY AND RECOMMENDATIONS

The Immigrant Council of Ireland in collaboration with the Women’s Health Project (HSE) and Ruhama
SUMMARY

Background, Rationale and Outline of Study

Globalisation, poverty and gender inequality have created conditions in certain regions of the world where vast numbers of women and girls are at risk of being targeted and trafficked for sexual exploitation. The US State Department estimates that approximately 800,000 people are trafficked across national borders, which does not include the millions trafficked in their own country. Approximately 80 per cent of transnational victims of trafficking and forced labour are women and girls, up to 50 per cent of which are minors (US State Department 2008). The majority of transnational victims are females trafficked for commercial sexual exploitation.

Extreme poverty, a severe reduction in economic earning capacity and multiple forms of discrimination, disadvantage and abuse are recognised as risk factors that make some women and girls increasingly vulnerable in their countries of origin to being recruited and coerced into the sex industry (Zimmerman et al 2006). The demand for a continuous supply of women to be available for commercial sexual exploitation in destination countries, such as Ireland, provides a highly profitable market for international traffickers.

Growing international concern about human trafficking is reflected in a number of human rights instruments and conventions that underpin the fundamental rights of those exploited through trafficking. The United Nations (UN) Palermo Trafficking Protocol (one of the protocols to the 2000 UN Convention Against Transnational Organised Crime (UN TOC), the full title of which is The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children), lays the foundation for international action on trafficking by providing an international framework for the definition of trafficking. It refers to force, coercion, movement and human rights abuses. Article 3 (a) of the Protocol states:

Trafficking in persons shall mean 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 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 (UN TOC 2000).

Under the UN Palermo Protocol, the consent of the victim to the intended exploitation is irrelevant, provided that any of the above-mentioned means have been used.

Trafficking is recognised as a ‘process’ that is built upon repressive methods and can involve deception, forced travel and long journeys, physical and psychological coercion, rape and the drugging of women while in transit, locking women in rooms and holding them in captivity, removing passports and other documents, withholding earnings and setting impossibly high repayment sums to get back passports and other documents (Zimmerman et al 2006).

Traffickers and recruiters also use more sophisticated methods of persuasion and enticement, exploiting women’s need to migrate from situations of extreme poverty to seek sustainable livelihoods. The globalised world economy marginalises women from poorer regions, who can become the ‘resource’ for the
dirty, difficult and dangerous jobs, including the global sex trade (Robinson 2006). Thus, the trafficking of women into the sex industry and the recruitment and exploitation of migrant women into prostitution are intertwined and need to be understood in the context of global labour migration (Bastia 2006).

Theorists now talk about the levels of severity of exploitation generating continuums of exploitation for women rather than a simple trafficked/not trafficked dichotomy (O’Connell Davidson 2006; Robinson 2006; Kelly, Coy, Davenport 2008). The reality, as stated by UN Special Rapporteur Sigma Huda, is that:

*For the most part, prostitution as actually practiced in the world usually does satisfy the elements of trafficking. It is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power and/or an abuse of vulnerability. Power and vulnerability in this context must be understood to include power disparities based on gender, race, ethnicity and poverty. Put simply, the road to prostitution and life within ‘the life’ is rarely one marked by empowerment or adequate options (Huda 2006)*

The sex industries in destination countries such as Ireland are the locations in which all women and girls are exploited, regardless of their means of entry. Furthermore, international research consistently demonstrates the severe harm intrinsic to all sexual exploitation and prostitution (Farley 1998, 2000, 2003). Yet, as many international commentators have pointed out, a lot of attention has been given at an international level to the transportation and enslavement of trafficked women but much less is done to understand how exploitation functions in the destination countries (Monzini 2005).

In light of these considerations, the focus of this research is to examine both the trafficking of women and girls into Ireland and the sexual exploitation of migrant women within the Irish sex industry.

**Research objectives**

The objectives of this research were to:

- Produce a preliminary estimate of the numbers, profile and experiences of women who are identified as trafficked into and through Ireland for the purpose of sexual exploitation
- Examine the organisation and operation of the sex industry in Ireland, together with a preliminary estimate of the numbers and profile of women in prostitution in Ireland
- Document the various forms of movement, deception and coercion and the impact on health of women involved in indoor prostitution and who are trafficked
- Highlight international practice in responding to prostitution and sex trafficking, outline how women in the Irish sex industry can be supported and protected, and how trafficking into and through Ireland can be prevented
- Describe how frontline services define trafficking and respond to women who are trafficked

The research was carried out over a 12-month period between December 2007 and December 2008.
**Focus of the study**

The focus of this research is on the trafficking of women into and through the Republic of Ireland for the purpose of sexual exploitation. The involvement of men/boys in prostitution is outside the scope of this research, as is the exploitation of children into the sex industry through paedophile networks. Although we acknowledge that trafficking for labour exploitation takes place, the focus of this research is on trafficking for sexual exploitation.

As well as a focus on the trafficking of women, we also focus on the sex industry, and in particular prostitution, into which women have been trafficked. The study is concerned with the mechanisms through which the sex industry is promoted, namely escort agencies, the internet and mobile phones, which are the main mechanisms through which buyers of sex connect with women who sell sex. The focus on buyers is important as the prostitution industry is fuelled by the demand of buyers.

The focus is on migrant women as, during the initial stages of the research, it was clear that internet-based indoor prostitution makes up a large segment of the prostitution market in Ireland. Migrant women are predominant in indoor prostitution. Also, street prostitution, which is comprised mainly of Irish women, has been researched by O’Connor, O’Neill and Foran (1999) and O’Neill and O’Connor (1999) and is the subject of a research project being carried out by the National Advisory Committee on Drugs (NACD 2007).

**Ethical considerations**

At all times, the researchers were cognisant of the ethical implications and sensitivity of the issues under study and were aware of not further stigmatising or placing women in prostitution at risk. Women interviewed were given a clear explanation of the purpose of the research and were asked to give their consent before being interviewed. They were given an assurance of anonymity and confidentiality and were assured that they could terminate the interview at any time. In relation to profiles of women outlined in the research, fictitious names were used and details were changed to preserve their anonymity.

**Research components**

The study has four main research components:

**Component one: documenting the numbers, profile and experiences of women who are identified as trafficked into Ireland**

Research objective:

- Document the numbers, profile and experiences of women who are identified as trafficked into the sex industry in Ireland

**Component two: documenting the organisation of the Irish sex industry**

Research objective:

- Research sex shops and lap-dancing clubs
- Document the numbers of men and the views of men who buy sex
- Estimate the numbers and profile of women involved in indoor prostitution
**Component three: documenting the impact on the sexual and reproductive health of women**

Research objective:

- Profile and document the impact of indoor prostitution on the sexual and reproductive health of women

**Component four: international practice**

Research objective:

- Survey international practice in relation to the trafficking of women for the purposes of prostitution
- Survey prostitution regimes in different countries
- Elicit views of the main organisations in Ireland that provide services to women or that are engaged in law enforcement in relation to trafficked women
- Outline how women can be best supported and protected and how the trafficking of women into and through Ireland for sexual exploitation can be prevented

A summary of the main data sources used in the study is provided in Appendix C of the full report.

**Outline of full report**

Chapter one of the full length report outlines the gendered dimension of migration, recent research on male demand, and different perspectives and understandings of prostitution. It concludes with a brief historical overview of prostitution in the Irish context.

The main empirical findings of the research are contained in chapters two and three. Chapter two looks at the trafficking of women into and through Ireland, with particular attention to countries of origin, recruitment, routes to Ireland, control strategies exercised over women and the official response to trafficked women. Chapter three examines the Irish prostitution industry, with particular attention to the numbers, profile and context in which men buy sex and women sell sex.

Chapter four examines international instruments, the Irish legislative framework on trafficking and prostitution, and recent Irish initiatives relating to trafficking.

Chapter five examines international experience in responding to prostitution and sex trafficking. It identifies best practice in other countries that could inform the development of a national framework in Ireland.

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1 The main organisations/agencies are: Ruhama; Women’s Health Project (HSE); the Immigrant Council of Ireland; Stop Sex Trafficking, Cork; the International Organization for Migration (IOM); the Separated Children’s Unit (HSE); and the Garda National Immigration Bureau.
MAIN FINDINGS

This research presents evidence of the trafficking of women into and through Ireland for the purpose of sexual exploitation. It reveals a highly lucrative Irish sex industry where large numbers of migrant women are being sexually exploited in indoor prostitution. It demonstrates the severe trauma and harm caused to women by trafficking and commercial sexual exploitation. The main findings of the research are outlined below.

The trafficking of women into and through Ireland

Over a 21-month period, between January 2007 and September 2008, 102 women were identified by ten services as being trafficked into or through Ireland. The largest number of women identified for this research as trafficked was by an organisation called Ruhama. The Women’s Health Project (WHP) (HSE), the Immigrant Council of Ireland (ICI) in Dublin and Cork-based STOP Sex Trafficking also identified significant numbers.² Of the 102 women, 26 were aware of a further 64 women who were trafficked into Ireland, bringing the number of women trafficked during that period to a possible 166. This number of 166 trafficked women is an underestimation; trafficking is covert and illegal, and many women who are trafficked remain invisible. It is mainly women who escape, are rescued or who have paid off their indentured ‘labour’ that come to the attention of services.

This research found that 11 per cent of the 102 women trafficked were children at the time they were trafficked to Ireland. Similar to adults, deception was a key factor in their recruitment and many women experienced prostitution, rape, brutality and imprisonment prior to arriving in Ireland.

The vast majority of women trafficked were from African countries. This may partly be explained by the expansion of the European Union (EU) in 2004 and 2007, which has meant increased freedom of movement for some Eastern Europeans. They are now less likely to come to the attention of immigration officials.

Services that identified women as trafficked for this research use the United Nations (UN) Palermo Protocol³ on Trafficking. Also, Ruhama has specified detailed indicators based on OSCE/ODIHR National Referral Mechanisms Handbook (2004), the International Organization for Migration (IOM) Counter-

² A small number of cases were identified by the following organisations: a legal practitioner in the Faculty of Law, National University of Ireland Cork; a counselling service in Cork; a counselling service in Scotland; IOM; the Poppy Project in the United Kingdom; and police forces in Lithuania and in England.

³ The UN Palermo Protocol is one of the protocols to the 2000 UN Convention Against Transnational Organised Crime (UN TOC). The full title is The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000).

⁴ OSCE is the abbreviation for Organization for Security and Co-operation in Europe. ODIHR is the abbreviation for Office for Democratic and Human Rights.

At the age of 17, Suzan was raped by soldiers. At 19, she was offered work in Europe in the hotel sector, by a ‘family friend’ who arranged a false passport and other documents for her. The friend accompanied her to Ireland. When she arrived in Ireland she was taken to a house and raped by his friends and forced into prostitution.
Women reported being transported by plane, train, bus, car and boat ferry, and many were transported by several means of transport. Some come through the United Kingdom (UK) via Belfast and are then transported to other parts of Ireland. Nine per cent (9) of the women were trafficked through Italy and some were prostituted in Italy prior to coming to Ireland.

When women who are trafficked reach Ireland, they are sometimes passed over to Irish brothel owners who prostitute them. Other women are held and prostituted by the original traffickers. In either case, papers are usually taken from the woman. In most cases, the woman is then not only illegally in the country but is without any documents. In this situation, the woman lives in clandestine conditions. Her existence is one of isolation and confinement, which makes it difficult for her to escape and seek assistance.

This study found that, alongside poverty, family dislocation, war and violence, and childhood abuse were key vulnerability factors predisposing women to being trafficked. Patterns of recruitment reflect patterns documented in international literature, with the least common form of recruitment being kidnap. Deceptive recruitment – where women were promised an education and work in domestic and other service sectors – was common, while some women were recruited through the pledge of marriage or a long-term relationship. None of the 102 women involved knew that they were specifically being recruited for the sex industry.

The accounts of trafficked women are of captivity, isolation, shame and betrayal combined with the trauma of systematic sexual exploitation and rape. For many, their sense of who they are is destroyed. They need time to re-build their sense of self, to develop a new identity and to recover from the traumatic legacy of repeated sexual abuse. Building relationships in which women feel valued and able to discuss the realities of prostitution is a major challenge for service providers.

**Dorin** is 26 years old. She was brought to Ireland via Amsterdam and sold by her boyfriend to an Irish man who owned an escort agency. She was coerced into prostitution through physical violence and death threats. There were also threats to her family at home.

**Trafficking Training Modules Handbook** and their direct work with victims of trafficking for almost a decade in Ireland.

Due to the clandestine nature of trafficking, there are not only major information deficits on the extent of trafficking, but also on what happens to women who are trafficked. We do know that the vast majority of women trafficked into Ireland for sexual exploitation that were identified in this research, are in indoor prostitution. Just less than half of the women were in prostitution outside the greater Dublin area.

Kiky (16) was promised a job as a domestic worker in Ireland by a family friend whom she trusted. Instead, when she arrived she was forced into prostitution against her will and was held captive in a house for two years with eight other women. She was forced to have unprotected sex with men who came to the brothel. When she eventually escaped through a window one night at 4am, she didn't know where she was because she had never been allowed out of the house, not even into the garden.
In Ireland, statutory systems and services are insufficient to support and protect women, and women who are trafficked can be criminalised and treated as illegal immigrants. Some women end up in prison or are deported. In this context, the State response is complicit with the interests of the trafficker and strengthens the position of the trafficker in relation to the woman who is trafficked. This helps to keep trafficking a hidden and clandestine problem.

The more ironic situation is that a woman, even when she is identified as having been trafficked and held captive in Ireland, deprived of money and sexually abused, may still be denied the right to remain in Ireland. As recent cases reported from the courts illustrate, a woman can be deported even when she has cooperated with the authorities in the investigation or prosecution of the trafficking crime. It is important that the needs of women take precedence over immigration issues and that a special legal residency route is provided.

It is important to note that, at an international level, official statistics diverge significantly from statistics compiled by non-governmental organisations (NGOs) (Kelly 2002). In some countries, police forces do not count victims of trafficking as such unless there is sufficient evidence to prosecute traffickers. However, in other countries, international practice is being developed where potential victims are identified by a combination of NGOs and the state under an agreed set of indicators and victims are entitled to protection and services.

The Irish sex industry

This research also looks at the incorporation of a highly lucrative global sex industry into Ireland. The absence of sustainable livelihoods in the home country and a growing demand for migrant women in destination countries fuels the exploitation of women in prostitution. More recently, it is becoming apparent that organisers of prostitution in Ireland are linked to international criminal networks and facilitate the marketing of women for prostitution.

The findings of this study include:

• There is a minimum of 1,000 women in indoor prostitution in Ireland at any one time

• While some women operate independently (the proportion of which is not known), other women are linked to prostitution agencies, which exercise different levels of penalty, control and violence that is difficult to determine due to the clandestine nature of prostitution

• There are 51 different nationalities of women available to men in indoor prostitution

• Of women advertised on the internet, 41 per cent were described as ‘touring escorts’. These women move around Ireland and some travel internationally

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“I have real problems forming relationships after this experience. I am very concerned regarding the future. (Salvia)”

Ferig who is 27 years old, spent time in prison for not having the proper documents. She is now in direct provision accommodation.

“Sometimes I cannot smile... I hate the work I am doing. (Ria)”
• Between 3 and 13 per cent of the women in indoor prostitution are Irish, which means that up to 97 per cent are migrant women.

• Nearly 40 per cent of migrant women in prostitution attending the WHP (HSE) have children and, for a minority of women, their children reside with them.

• The largest group advertising on the internet self-identify as being from one of the EU 15 countries. Caution needs to be taken in interpreting the findings in relation to nationality. It is possible that some women who claim to be from the EU 15, particularly from Spain and Italy, are of South American origin or from Eastern European countries. The second-largest group are from South America/Caribbean.

• The women’s ages range from 18 (with some evidence that girls as young as 16 years are involved) to 58 years. The average age is estimated at 25.

The impact of prostitution on the sexual and reproductive health of women is enormous. Women present to the WHP (HSE) with a range of health symptoms including bacterial vaginosis, thrush, hepatitis A and B, urinary tract infections and many other health conditions related to prostitution. Many of these infections have serious long-term implications for the health of women. Maintaining and protecting their health is a constant anxiety for women.

The effect of prostitution on the emotional and mental health of women is immense. Drugs and alcohol are used as a coping mechanism. Being in prostitution is dangerous and women need to be continually concerned about their safety. Much more monitoring needs to be undertaken on the number of women who are sexually assaulted, raped and/or subjected to physical violence, as well as the number of women who are murdered.

Despite the purchase of sex becoming more normalised, the number of men who report buying sex in Ireland remains a relatively small minority of Irish men:

• One in 15 men in Ireland reported that they buy sex (Layte et al 2006), compared to one in eight in Sweden.

• Men who buy sex from women tend to be highly educated, have incomes in the middle range and are employed in professional occupations (Layte et al 2006).

• The average price paid for sex is €150 for half an hour and €250 for an hour.

"This is not a normal life or a job. If I did not have children, I would not have done this. I do not think about myself. My son is in college and my daughter is at school. I want to be sure my daughter will never have to do this. I so miss home but will keep working until all the loans will be paid off. (Vanessa)"

I feel like nothing. I feel dirty. I feel confused and upset all the time. I want to get out of this work. I want a normal life. I am tired of all the lies... lies, lies, lies to everyone, to my family, my friends at home. How could I go back? What would I say I had been doing? I do not want to lie but how can I tell the truth. I have lived inside this world, this universe and the normal world outside is lost to me. (Anara)"
• Of the men who buy sex, 61 per cent are married or in a relationship (Escort Surveys 2006)

• A significant proportion of men buy sex during the daytime and in the evenings after work

• While 16 per cent of buyers use prostitutes once every two weeks or more frequently, 46 per cent use prostitutes less frequently than monthly (Escort Surveys 2006)

• 37 per cent of buyers, as well as availing of the services of women advertised on the internet, also pay for sex with women in street prostitution (Escort Surveys 2006)

• Of the men who buy sex, 54 per cent visit pornographic sites on the internet (Escort Surveys 2006)

There is evidence that dangerous, unprotected sexual activities are commonplace in prostitution in Ireland. In the competitive environment of the sex industry, there is increasing pressure on women to put their own health at risk, with well over half (57 per cent) of the buyers stating that they had unprotected oral sex and 9 per cent of buyers stating that they had unprotected vaginal sex (Escort Surveys 2006).

It felt like a prison, no time for lunch and I was on call 24/7. I saw between five and seven men a day, with occasionally a day off. There was no choice about which men you saw and some men wanted sex without condoms. If you refused to have anal sex you had to pay a penalty or the ‘security’ men would beat you up. (Isobel)

The proliferation and normalisation of the sex industry, and the increasing availability and access to women selling sex, together with an ideology that men are entitled to satisfy their sexual desires, are important contextual factors in the buying of sex. Internet sites such as Punter.net illustrate the level of objectification and de-humanisation of women in prostitution by the users. Yet, some buyers have an expectation of a prolonged and ‘intimate’ experience, known in the business as the ‘girlfriend experience’ (GFE), and are highly critical when the woman does not appear sufficiently involved.

Concerns were voiced among some men about the trafficking of women and girls for the purpose of sexual exploitation, with 25 per cent of men stating that they had met a woman who they felt was being forced into prostitution (Escort Surveys 2006).

5 A website aimed at men who buy sex.
RECOMMENDATIONS

The overall recommendation of this study is that the Irish Government should develop an integrated anti-trafficking and prostitution strategy. The following 10-point plan could form the basis of the strategy:

1. **The provision of support and the development of a protective environment for disclosure and identification**

All women in prostitution, regardless of whether or not they were trafficked, should be entitled to basic services where their physical and mental health needs can be addressed. Following raids on brothels, women should be automatically and immediately provided with basic services and legal representation. Disclosure by women about their experiences and circumstances is more likely to take place when their immediate needs are met and they can interact with a person they do not see as part of the police force/immigration authorities. Women need space and support to enable them to talk about their experiences and not to be overwhelmed by the fear of deportation.

Adequate funding needs to be made available to provide access to services for women in prostitution and trafficked women. While there is some funding available for services located in Dublin, it is limited and does not cover the range of responses required. Services outside Dublin also need to be resourced as there is no statutory-funded service provision for trafficked women or women in prostitution. In developing nationwide services, existing services working with victims of sexual violence should be used and staff should be upskilled.

**Key actions**

- All women in prostitution, including trafficked women, should be entitled to basic services, regardless of cooperation with An Garda Síochána (the Gardaí) in an investigation or prosecution
- Frontline service providers across a range of services, including community care, housing and legal services, should be upskilled to make referrals to appropriate specialist services. They should also be upskilled to identify women in prostitution and women who are trafficked into the sex industry

Basic services should be available nationwide and should include:

- A telephone support line for women
- Support services, including a dedicated key worker for each woman who would, in consultation with the woman, develop individual life plans in relation to sexual and reproductive health, psychological and physical health, and referrals to appropriate services
- A specialised sexual health clinic in all major cities as is provided by the WHP (HSE) for the greater Dublin area
- Independent legal representation
- A continuum of housing options including crisis refuges and transitional, long-term and safe housing
- Social welfare benefits
• Crisis and long-term counselling to address the harm and trauma of sexual exploitation and the secrecy and shame that is attached to prostitution

2. The creation of exit routes for women
The provision of exit routes to enable women to move out of prostitution should be part of the overall strategy.

Key actions
• Develop integrated educational and training progression routes that focus on long-term economic independence and sustainability
• Ensure access to basic services outlined above
• Continue close liaison with the Gardaí to ensure the safety and protection of women
• Put in place safe-return programmes (to country of origin) including re-training and financial assistance

3. Making provision for regularising immigration status
It is critical that all trafficked women and migrant women who have been exploited in prostitution and who come forward for assistance, are not criminalised if they have undocumented status in the country. In recognition of the harm and violence intrinsic to prostitution, women in prostitution who seek assistance should be able to regularise their status if required.

Key actions
• Ensure immediate access to independent legal representation for all migrant and trafficked women in the sex industry at the point of contact
• Make a renewable reflection and recovery period available to all trafficked women, including migrant women exploited in prostitution who have been identified as suspected victims of trafficking through an inter-agency approach
• Establish a programme, with clear protocols and administrative criteria, through which residence permits would be granted on ‘humanitarian grounds’ (when required) to all victims of crimes committed against them in the context of prostitution or trafficking
• Residence permits should also be granted to women who have exited prostitution and cannot return to their countries of origin for reasons relating to their safety, age, state of health, family situation and other factors relating to their humanitarian or medical needs
• Ensure access to basic services outlined above
4. Put in place an inter-agency strategy

There is a need to develop an inter-agency strategy to provide a coherent response to the needs of women in prostitution, including women who are trafficked into and through Ireland.

**Key actions**

- Extend the brief of the Anti-Human Trafficking Unit (AHTU) in the Department of Justice, Equality and Law Reform (DJELR) to include migrant women in prostitution
- Establish a coordinated inter-agency task force comprised of all relevant services and agencies
- Develop inter-agency referral protocols, training, recording and monitoring systems to provide baseline data that would facilitate documenting the needs of women in prostitution and women who are trafficked
- Resource return programmes where it is safe and appropriate for migrant women to return to their home country and evaluate the effectiveness of the programmes on a regular basis

Specific programmes for the safe return of victims of trafficking and migrant women in prostitution in Ireland who wish to return to their home country need to be introduced. In developing such programmes, the following should be taken into consideration:

- The development of protocols or agreements between different agencies, including the IOM and the Gardaí, in the area of identification, referrals, safety and assistance
- The need for regular evaluation of the effectiveness of return programmes and the extent to which they provide long-term, safe and secure livelihoods for returned victims
- Examination of the alternatives that can be provided where it is inappropriate or unsafe to return a victim to her country of origin
- The need for research on the extent to which migrant women in prostitution can be supported by the IOM through return and assistance programmes
- The role that can be played by the IOM in raising awareness in migrant communities about prostitution and trafficking, and also preventative measures and awareness-raising in countries of origin

5. Legislation and enforcement

There is need for a range of initiatives in relation to legislation and enforcement.

**Key actions**

- Introduce legislation criminalising the buying of sex and decriminalising the selling of sex, as is the case in Sweden and
Norway. Provisions should be immediately introduced to erase the criminal records of women selling sex

- Resource specialised permanent Garda units to continue the targeting and investigative operations of prostitution organisations/agencies and traffickers
- Put in place surveillance operations of the internet and mobile phones used by organisers of prostitution and buyers of sex
- Introduce legislation preventing escort agencies registered in the UK from advertising services in Ireland
- Review the regulation of sex shops
- Specialist anti-trafficking officers should be appointed within the Gardaí with the specific role of identifying and referring women in prostitution to appropriate services. The harm of prostitution, not illegal migration, should be the focus of their role. In this context, gardaí need to see women as potential sources of intelligence and as potential witnesses in criminal cases, as well as victims in need of and deserving protection
- The Task Force on the Entertainment Industry should reflect on the links between lap-dancing clubs and prostitution. It should consider making a recommendation to revoke all licences where the dance floor is not separate from the public area. This could result in many of the lap-dancing clubs being closed
- Finances confiscated by the Criminal Assets Bureau should be invested in services for women exploited in the sex industry in Ireland

6. Changing attitudes and addressing the growth of the sex industry

Alongside the introduction of legislation to criminalise the buyers of sex and to decriminalise women who sell sex, there is a need for a public campaign demonstrating the intrinsic harm of prostitution to women. Without demand by men, there would be no prostitution. Attitudes of men are socially and culturally constructed; prostitution prevention programmes should aim to shift cultural attitudes about prostitution so that there is a cultural taboo against men who buy sex and cultural respect for men who make the choice not to buy sex.

**Key actions**

- Develop a strategy to change attitudes to prostitution so that there is a cultural taboo against men who buy sex
- Disseminate research findings and evidence on the harmful mental and physical impact of prostitution on women
- Human rights education programmes, which include legal and human rights implications and the realities of prostitution and trafficking, should be developed for schools
- Initiate an informed debate on sex shops, lap-dancing and the proliferation of the sex industry
- Information should be made available on the health implications for men of buying sex
7. Trafficking of minors

All separated children who come to the attention of the State should be treated according to the State’s obligations under the Convention on the Rights of the Child (1989), which states that separated children are entitled to the same treatment as national or resident children. Children should be treated as children first and foremost. All considerations of their immigration status should be secondary.

Key actions

Legal

- Special provisions, tailored specifically to the needs of children and based on the principle of best interest of the child, need to be incorporated into the Immigration, Residence and Protection (IRP) Bill 2008
- Amendments to the IRP Bill 2008 should include a provision stating that the right to services for children is not dependent on cooperation with a criminal investigation or prosecution
- There is an absence of a clear legal status for separated children who are not asylum seekers and are not recognised as refugees, or persons in need of subsidiary protection or ‘humanitarian leave to remain’. There are children who do not have a card issued by the Refugee Applications Commissioner to persons who apply for protection or any other residence card that can identify their immigration status in the State. The situation with children in these circumstances should be clarified, and their status and right to services should be on a par with national children
- All child victims of trafficking should have immediate access to independent, free legal representation

Training

- Special training for immigration officials is needed to identify child victims of trafficking. A 24-hour social work service should be set up to respond to emergency cases

Asylum, family reunification, tracing

- The asylum process needs to be more child-friendly. This should include: child-friendly information materials; special forms for children; special interview techniques; special rooms for interviewing; consideration of child-specific persecution and the developmental stages of a child; and ensuring that information is given to a child at the level they can understand. Training should be provided to staff to develop specialised skills for engaging with children and assessing their claims during the asylum process
- Family tracing needs to take place at the earliest possible time. There should also be follow-ups of children who have been reunited with family members to monitor whether this is in the best interest of the child and whether the child is at risk
**Care and Support Services**

- Increased security and a greater adult/child ratio are needed in all residential centres for separated children. There is also a need for safe, secure and long-term accommodation for child victims of trafficking to protect them from being re-trafficked.
- A guardian *ad litem*, who would independently represent, aid and assist a separated child in the care of the State should be provided where necessary.
- All separated and trafficked children should have immediate access to specialised sexual health services similar to those provided for women by the WHP (HSE).
- There should be support and preparation for young people prior to leaving care and aftercare services.

**8. Prevention in origin countries**

While a national response is needed in Ireland, there is also a need to recognise that the sex industry is globalised and demands an international response.

**Key actions**

- Ethical guidelines and sanctions should be introduced to ensure that no military, police or civilian personnel exploit women and girls in prostitution in origin countries.
- Irish development aid should target specific resources towards the prevention of trafficking of women and girls in the origin countries in cooperation with the Joint Consortium on Gender Based Violence.
- Destination countries, including Ireland should identify how they can support origin countries to prevent trafficking and facilitate returns.

**9. Compensation**

There is a need to recognise the intrinsic harm of trafficking and prostitution to women, and to compensate them for this harm as required in international law.

**Key actions**

- A compensation fund for victims of trafficking should be put in place as a matter of priority, in line with Article 15(4) of the CoE Convention, which the Irish Government has expressed a commitment to ratify.
- Article 15 obliges the State to adopt legislative or other measures as may be necessary to guarantee compensation for victims of trafficking.
- The compensation fund should be financed from the proceeds of the Criminal Assets Bureau.

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6 The Joint Consortium on Gender Based Violence comprises human rights, humanitarian and development agencies and two Irish Government departments. Its aim is to promote the adoption of a coherent and coordinated response to gender-based violence, www.gzv.ie

7 The existing Criminal Injuries Compensation Tribunal can only play a very limited role in cases involving victims of trafficking as it only refunds expenses and losses suffered as a direct result of a violent crime or while assisting or trying to assist in preventing a crime or saving a human life, and does not cover ‘immaterial loss and suffering’.
10. Research, evaluation and monitoring
There are major information deficits and research gaps on prostitution and trafficking in Ireland.

Key areas for further research

- The long-term impact of prostitution on women's mental and physical health and the mortality rate of women in prostitution
- Prostitution agencies, including escort agencies, and the control they exercise over women
- The experiences of women in prostitution and initiatives that would help women to exit
- The extent to which children (including separated children) are trafficked and the needs of these children
- The needs of children of women in prostitution
- A survey of men who buy sex, including social class, age and the context in which men buy sex (i.e. individually or in groups, male celebrations, the use of lap-dancers and the use of pornography)
- Long-term outcomes for women who have been identified as trafficked, including residency, international protection and the effectiveness and suitability of return programmes for women

A framework should be established and resourced by the Irish State, with clear indicators and targets agreed, aimed at measuring the effectiveness of all interventions including legislation, enforcement and service provision.
CONCLUDING REMARKS

This research has looked at the trafficking of women and children into and through Ireland for the purposes of sexual exploitation. It has provided evidence, based on the experiences of the women involved, of the severe harm and abuse that victims of trafficking and sexual exploitation experience, both during the process of being trafficked and when in the Irish sex industry. The research has also outlined the Irish legislation on trafficking and prostitution in Ireland, and looked at models of good practice internationally that we could learn from.

The development of an anti-trafficking strategy is only in embryonic form in Ireland and there is an absence of a policy on prostitution. Due to the lack of an integrated strategy on trafficking, recorded information is limited and, for the most part, is related to the brief of particular organisations. Also, it is only now that a system for collating official statistics on trafficking for sexual exploitation is being developed with the establishment of the AHTU in the DJELR.

Official published statistics on prostitution are incomplete and need to be disaggregated by gender, age, ethnicity and, where relevant, type of offence. Outside of Dublin and Cork, there are no specialist services for women in prostitution or for those who are trafficked into prostitution.

Services for women in prostitution are underdeveloped and, for the most part, are confined to the Dublin area. It is important that services are resourced nationally and that specific responses are developed for women under 18 years. It is essential that inter-agency referral protocols are put in place between the various organisations providing services. Exit strategies must be a priority.

A range of issues need to be addressed in relation to children, including providing residency status for separated children or aged-out minors who wish to remain in Ireland and for whom the asylum process is inappropriate.

While Ireland is a signatory to many international human rights instruments, there is still substantial progress that needs to be made in order for the human rights of victims of trafficking to be fully upheld. It is notable that current policy does not fully implement the main provisions contained in the Council of Europe (CoE) Convention on Action against Trafficking in Human Beings or the UN Palermo Protocol. International human rights obligations require states to provide international protection and a humanitarian response to victims of trafficking, rather than treating victims of trafficking as ‘illegal’ immigrants, as is often the case in Ireland.

International practice shows that inter-agency coordination is key to the development of services so that the experiences of and dangers to victims of trafficking and women in prostitution are central to the work of preventing and tackling trafficking. NGOs need to play a critical role in this, particularly in relation to victim identification and referral, and the provision of support services and legal representation. There is a need to provide victims of trafficking with an opportunity to have the right to renewable residence permits and residence status. International practice also demonstrates that, to tackle trafficking effectively, the sex industry of the destination country must be tackled. Therefore, the demand for sexual services by men in Ireland needs to be addressed, including criminal sanctions and awareness campaigns.
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