



Violating Women's Rights – Prostitution in Ireland

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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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

¹ Healy & O Connor: *The Links Between Prostitution and Sex Trafficking: A Briefing Handbook* (2006)

the organisers and owners of the businesses.²

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, infertility, 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.³

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

² Kavemann, B: *The Act Regulating the Legal Situation of Prostitutes – Implementation, Impact, Current Developments: Findings of a study on the impact of the German Prostitution Act (2007)*

³ Presentation by Sarah Benson, CEO of Ruhama at NWCi Members Meeting 18.10.11 available at www.nwci.ie

the rest of society with panic attacks, depression, and suicidal feelings.⁴

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 sex⁵ and a more comprehensive approach is needed in tackling the demand for paid sex. The estimated average age of entry into prostitution is 14 years⁶. 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 years⁷. 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 respectively⁸. International research from 2003 and 2009⁹ 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

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/pa/ge/whatisbeingdone-datastrategy-en>

⁹ "Men Who Buy Sex: Who They Buy and What They Know", Farley, Bindel, Golding 2009

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

¹⁰ “Prostitution and human trafficking: Focus on clients”, Di Nicola, Cuaduro, Lombardi, Ruspini, (2009).

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.

“By making prostitution legal, men get to perpetrate on some women and girls what is unwanted and abusive and what has been made illegal and unacceptable on women in general. Male abusers can then act with impunity because they know that women in prostitution will not be believed

¹¹ *Globalisation Sex Trafficking and prostitution and Experiences of Migrant Women in Ireland, Kelleher et al 2009*

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

¹² O'Connor, M: *Where are we now? New Feminist Perspectives on Women in Contemporary Ireland* p. 157

¹³ Melissa Farley et al., 'Prostitution in five countries: violence and post traumatic stress disorder', *Feminism and Psychology*, 8, 1998.

¹⁴ Melissa Farley et al., 'Prostitution in five countries: violence and post traumatic stress disorder', *Feminism and Psychology*, 8, 1998.

¹⁵ Melissa Farley et al., 'Prostitution in five countries: violence and post traumatic stress disorder', *Feminism and Psychology*, 8, 1998.

¹⁶ Home Office, *Paying the price*, 2004, UK.

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

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

¹⁸ Baklinski, Thaddeus: *Swedish Prostitution Ban An Apparent Enormous Success* (2007)

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.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;

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

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

²⁰ Dalder: *Prostitution in the Netherlands since the lifting of the Brothel Ban* (2007)

²¹ Kelly et al: *Shifting Sands: A Comparison of Prostitution Regimes Across Nine Countries.* (2008)

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

Criminal record, including the risk of disclosure has been identified by the buyers themselves as a reliable deterrent of their actions²³. 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 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

²³ Farley 2011, McLeod 2008

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.²⁴

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

²⁴ Ekberg / Wahlberg: *The Swedish Approach: A European Union Country Fights Sex Trafficking* (2009)

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 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

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