



Evidence to Committee for Justice

Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

1st November 2013

Clauses 1 -3

Women's Aid support the provisions within clauses 1 – 3; in particular the list of aggravating factors outlined in clause 3 appear to us to be reasonable and in keeping with the nature of the crime of human trafficking.

Clause 4

Women's Aid supports sentencing that reflects the seriousness of the crime of human trafficking. However while we support the spirit of this clause, it is our belief that two years is not sufficiently lengthy to reflect the serious and despicable nature of the crime of slavery.

Clause 5

We generally agree with the provisions within clause 5. However we seek clarity on clause 5(e) and how and where this amends the Asylum and Immigration (Treatments of Claimants etc) Act 2004, and the specific definition of "forced begging or criminal activities".

Clause 6

Women's Aid supports the provisions within Clause 6 of the Bill, which criminalises those who purchase sexual services. Given that the majority of human trafficking in Northern Ireland is for the purposes of sexual exploitation, we believe it is crucial to tackle the demand that fuels this heinous crime, and send a strong message that anyone buying sexual services here or worldwide is supporting sexual slavery and the degradation of human rights. Our position on the criminalisation of buyers of

sexual services is based on the inextricable link between prostituted sex and the trafficking industry and on the basis of our belief that prostitution is a form of violence against women¹. We are joined in our belief that criminalising the buying of sex is the way forward in tackling human trafficking by:

- End Violence Against Women coalition (EVAW)
- European Women's Lobby (EWL)
- Women's Resource & Development Agency (WRDA)
- Equality Now
- Turn Off the Red Light Campaign in the Republic of Ireland, whose members include the Immigrant Council of Ireland, Ruhama, Barnardos, Rape Crisis Network Ireland, the Labour Party, SIPTU, Soroptomist International Ireland, and a host of other NGOs, Trade unions and charities.²
- The Irish Congress of Trade Unions (ICTU)
- Eaves

Clause 6 of the Bill would implement a similar response to prostitution and human trafficking as the model used in Sweden, which was introduced there in 1999 as part of their Violence Against Women Bill. According to a report by Swedish police in 2010, the law criminalising buyers of sexual services has successfully deterred many criminal networks from considering Sweden as an option for trafficking or pimp-led organised prostitution.³

The report also states that there has been a significant decrease in on-street prostitution, that the numbers of sexual services sold via internet / off-street means are still much smaller than neighbouring countries Denmark and Norway, and that the proportion of prostituted persons from other countries had not exploded in the way it had elsewhere.

On the other hand, in countries where prostitution has been legalised, there has been no improvement in the situation of those in prostitution or decrease in human trafficking. In the Netherlands, a 2007 report for the Ministry of Justice concluded that:

- "There has been no significant improvement of the situation of persons in prostitution". This has been corroborated by other studies and criminal cases, in which exploitation, trafficking and coercion have been found to exist within legal, licensed brothels.
- "The prostitutes' emotional well-being is now lower than in 2001 on all measured aspects".
- "The use of sedatives has increased".

¹ For further information on our detailed position, please see the briefing paper at Appendix 1.

² A full list of the Turn Off the Red Light membership is available here:

<http://www.turnofftheredlight.ie/about/whos-involved/>

³ 'Briefing on Swedish law and policies on prostitution and trafficking in human beings', Gunilla S. Ekberg B.S.W., JD, 2012.

- Options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.

Several other countries have followed Sweden's lead in criminalising the purchase of sex. Norway criminalised the purchase of sex and at the same time decriminalised the sale of sex to tackle demand for sexual services and provide support for those in prostitution and victims of trafficking. Iceland, having legalised prostitution in 2007, reversed this in 2009 following concerns that legalisation had fuelled human trafficking and exploitation.

Regarding clause 6 (4), we welcome that those who sell sex are not criminalised under the legislation for aiding and abetting offences, and that these concerns on the criminalisation of those in prostitution during the consultation period have been reflected in the Bill. We believe that the legislation should go further still to specify that those selling the sexual services will not be criminalised for any action directly connected to selling sexual services (soliciting, selling of sex etc). It is essential that the criminalisation of buyers is accompanied by the decriminalisation of those in prostitution, if this legislation is to truly recognise the marginalised position of those in prostitution in Northern Ireland.

Regarding punitive measures for those convicted under clause 6, Women's Aid is of the view that punitive measures should increase in severity for those convicted more than once of this offence, or that serial offenders should get mandatory jail time after several convictions under clause 6.

Clause 7

Women's Aid fully supports the need for training and the availability of adequate investigative tools. We also support the provision within 7(2) and 7(3), which state that the accusation or reporting of a victim is not a requirement for instigating proceedings under this Act.

Clause 8

Women's Aid is generally supportive of clause 8. We would add that in the circumstances where A is a child, a support plan should be put in place to assist that child and support them onto a path in life that does not involve crime. We would also add that there should be no criminalisation of those in prostitution (see above).

Clause 9

We are generally supportive of clauses 9(1) and 9(2). In relation to clause 9(3), we would point out that the bureaucratic processes associated with making determinations as to whether someone is trafficked are prone to err. A person presenting as a victim but with a determination that they are in fact not a victim is very possible. There must be sensitivity within this legislation to the fact that there

may be victims who have endured a great deal of trauma but has been failed by the National Referral Mechanism – these victims also require assistance and support.

Clause 10

Women's Aid welcomes the extension of assistance of support to a victim without a conclusive determination to 3 months after criminal proceedings are completed. The current 45 day reflection period is entirely insufficient to allow a traumatised victim to come to terms with their ordeal.

While we welcome this extended period of support, we are concerned that it is contingent upon criminal proceedings being completed. Thus it does not extend to those who are unwilling to cooperate with an investigation but whose evidence is required for the case to go ahead, nor does it account for cases where the PPS don't take the case forward on grounds of insufficient evidence in spite of the cooperation of the victim. We would point to better support models such as Italy, which offers 3-6 months temporary residence which can be extended for up to a year, which is not contingent upon cooperation with an investigation.

In relation to 10(1)(b)(i), while we agree in theory that family members should only receive support if they have not been responsible for the trafficking of the child themselves, we would point out that families may also have been victims of coercion or threat, and that all the complexities of such a situation need to be taken into account. This is notwithstanding the fact that child protection measures must be paramount and adhered to at all times.

We welcome the inclusion of clause 10(1)(b)(iv), which states that victims must be offered assistance from someone of the same gender. This is critical for victims of human trafficking. We also welcome the provision of support to aid victims in their physical, psychological and social recovery at para (v). We would point out that for this to be delivered in any meaningful way, longer term therapies must be included, and that certain therapies are not appropriate shortly after a victim has been identified. For instance, counselling is crucial for a victim 1 – 2 years after their ordeal, but it would be entirely counter-productive and inappropriate if it was only offered earlier than that.

Finally, we would point out that this is a Bill to tackle human trafficking and also other forms of exploitation that may not amount to human trafficking but are nonetheless exploitation. To that end, we would suggest adding another clause after clause 10, which specifically deals with assistance and support for those in prostitution. This would include the establishment of support pathways and routes to exit and should include many of the means of assistance identified in clause 10. Based on our experience of supporting women who are or have been in prostitution, we would suggest that many of the support provisions necessary for those in and formerly in prostitution are not dissimilar to the support provisions necessary for victims of domestic violence or human trafficking.

Clause 11

While we agree that victims of human trafficking should be eligible for criminal compensation, we are not aware of any instances where a victim of human trafficking has been successful in claiming such compensation. We would therefore urge that the process whereby victims of such intimate and harrowing crimes as human trafficking, sexual violence and exploitation and domestic violence claim compensation should be simplified, to ensure that the compensation process does not re-victimise applicants and that compensation is genuinely open to them in practice.

Clause 13

We welcome the inclusion of special measures for victims in criminal investigations. However we believe that the phrase “as far as possible” significantly weakens the protections for victims, and that this needs to be strengthened. We would advise that such special measures should be available as standard and without exception.

We would also advise that in 13(b)(vi), the choice to be accompanied by a person or support worker from a support organisation should be included, as should the right for the victim to be accompanied by someone of the same gender.

Clause 14

We support clause 14. In particular we fully support the presumption of being under 18 in ambiguous cases (14(c)).

Clause 15

In keeping with the government’s approach to domestic and sexual violence, we recommend that there should be an accompanying action plan with the proposed strategy, and that a new strategy each year is not necessary but that the strategy could be updated annually. We also recommend that there should be regular reporting on the working of the clause which criminalises the buying of sex and also whether there has been successful decriminalisation of those in prostitution. While we note that this is alluded to within clause 6, we regard such reporting as ongoing and not merely something to complete once after 3 years. We would strongly urge that such reporting is incorporated into an action plan and is reported on annually after the initial 3 year report.

Clause 16

Women’s Aid strongly supports the establishment of the role of independent rapporteur on human trafficking.

Clause 17

Women’s Aid supports the definition of a child being someone under the age of 18, and the presumption of a victim being a child where there is uncertainty.

Appendix 1: WAFNI Briefing paper on the Trafficking & Exploitation (Further Provisions and Support for Victims) Bill

Human trafficking is a form of slavery, involving the exploitation of women, men and children for the purposes of prostitution, sexual exploitation, forced labour or services, or domestic servitude.

The purpose of the Trafficking and Exploitation (Further Provisions and Support for Victims) Bill is to tackle human trafficking and exploitation more effectively in Northern Ireland. It does so in a number of ways, including strengthening protection for people in a “position of vulnerability” who may “have no real or acceptable alternative but to submit to the abuse involved”, and by criminalising the purchase of sex in Northern Ireland under Clause 6 of the Bill.

Why Women’s Aid supports the Bill

Women’s Aid is the provider of support services to all female victims of human trafficking in Northern Ireland. We also run the 24 Hour Domestic & Sexual Violence Helpline, which is open to all women and men affected by domestic and sexual violence. Through our work supporting trafficked women and victims of domestic & sexual violence, we see first-hand the devastating effect that the sex industry has on women, on girls, and on society as a whole. We believe that this Bill is a bold and radical opportunity for Northern Ireland to lead the way in the fight against human trafficking and sexual exploitation.

We call on all political parties, voluntary organisations and trade unions to grasp this opportunity and support the Bill, and send out a clear signal at home and worldwide that Northern Ireland says no to human trafficking and exploitation, and no to all violence against women and girls.

Clause 6

Women’s Aid supports the provisions within Clause 6 of the Bill, which criminalises those who purchase sexual services. Given that the majority of human trafficking in Northern Ireland is for the purposes of sexual exploitation, we believe it is crucial to tackle the demand that fuels this heinous crime, and send a strong message that

anyone buying sexual services here or worldwide is supporting sexual slavery and the degradation of human rights. We are joined in our belief that criminalising the buying of sex is the way forward in tackling human trafficking by:

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Clause 6 of the Bill would implement a similar response to prostitution and human trafficking as the model used in Sweden, which was introduced there in 1999 as part of their Violence Against Women Bill. According to a report by Swedish police in 2010, the law criminalising buyers of sexual services has successfully deterred many criminal networks from considering Sweden as an option for trafficking or pimp-led organised prostitution.⁵

The report also states that there has been a significant decrease in on-street prostitution, that the numbers of sexual services sold via internet / off-street means are still much smaller than neighbouring countries Denmark and Norway, and that the proportion of prostituted persons from other countries had not exploded in the way it had elsewhere.

On the other hand, in countries where prostitution has been legalised, there has been no improvement in the situation of those in prostitution or decrease in human trafficking. In the Netherlands, a 2007 report for the Ministry of Justice concluded that:

- "There has been no significant improvement of the situation of persons in prostitution". This has been corroborated by other studies and criminal cases, in which exploitation, trafficking and coercion have been found to exist within legal, licensed brothels.
- "The prostitutes' emotional well-being is now lower than in 2001 on all measured aspects".
- "The use of sedatives has increased".
- Options for leaving the industry were in high demand, while only 6% of municipalities offer assistance.

Several other countries have followed Sweden's lead in criminalising the purchase of sex. Norway criminalised the purchase of sex and at the same time decriminalised

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⁵ 'Briefing on Swedish law and policies on prostitution and trafficking in human beings', Gunilla S. Ekberg B.S.W., JD, 2012.

the sale of sex to tackle demand for sexual services and provide support for those in prostitution and victims of trafficking. Iceland, having legalised prostitution in 2007, reversed this in 2009 following concerns that legalisation had fuelled human trafficking and exploitation.

Link between human trafficking and prostitution

There is an inextricable link between demand for prostituted sex and human trafficking. Traffickers and pimps operate side by side in the same locations, using the same advertising, often under the umbrella of the same criminal gangs. While trafficking is more strictly defined by coercion and slavery, this does not account for the wide spectrum of control, manipulation and exploitation that fuels the sex industry. Traffickers and pimps alike target vulnerable adults and young people to coerce them into the sex trade, capitalising on poverty, desperation, and vulnerability for their substantial financial gain. Without the prostitution industry, much human trafficking would not exist.

The boundaries between different forms of trafficking are also not clear cut, and Women's Aid have come across women who have been trafficked for the purposes of forced labour who also end up forced into prostitution, or are subject to other forms of exploitation such as abuse or sexual harassment from their 'employer'. As many are migrant workers with no safety net or recourse to government help, they remain trapped in their abusive situation, extremely vulnerable to many forms of exploitation.

Is prostitution a form of violence against women?

Women's Aid regards prostitution as a form of violence against women and a violation of women's human rights. Women involved in prostitution suffer severe physical and psychological harm from providing sex to multiple partners on a daily basis. Many women in prostitution also suffer violence and control from pimps, traffickers and people purchasing sexual services, and research shows widespread substance abuse in order to cope with the realities of prostitution.

Women's Aid has seen the devastating and harmful impact of prostitution on those in it in the course of our work over three decades. Many women who seek our services report struggling with anxiety, depression and PTSD linked to prostitution even many years or decades after they have exited. This includes those few women who would have considered themselves to have entered prostitution by choice, yet now find themselves struggling to cope with the harm that it has caused. We have also found that women who have been prostituted have often experienced other forms of

gender-based violence, such as domestic violence or other forms of sexual violence. This is backed up by a vast body of research on prostitution in the UK and beyond.⁶

Human trafficking and the sexual exploitation of women are human rights issues. The Universal Declaration of Human Rights states that “No one shall be subjugated to torture or to cruel, inhuman or degrading treatment or punishment”⁷. Trafficking and prostitution are violations of this right and the rights of women to full equality and to human dignity.

Evidence gathered from men who buy sexual services reveals widespread misogyny among those who buy the services of prostitutes, similar to misogyny and abuse directed at women on social networks, in public spaces and in everyday life⁸. In a study of men who bought sexual services from women in Scotland, it was found that “punters hold attitudes on a continuum from mildly to strongly misogynist. These negative attitudes towards women are associated with sexually coercive behaviours against not only prostituted women but against other women in punters’ lives”.⁹ In order to fully realise equality and dignity for all women, we must effectively tackle the underlying causes that foster such misogyny and abuse, and this includes the prostitution industry.

As Human Rights Watch have stated:

“Ultimately, the struggle for women’s human rights must be about making women’s lives matter everywhere all the time”¹⁰

A woman’s choice?

For most women, entering prostitution is not a freely made choice. The majority of women in prostitution are either trafficked, are trapped in poverty and feel that they have no other options, or are targeted because of their vulnerability. Many women who enter prostitution have been victims of domestic or sexual abuse as adults or children, suffer from a range of mental health issues, or prostitute themselves to feed an addiction. Some women also report that, although they may have chosen to enter prostitution, they found themselves unable to exit it and that their initial ‘choice’ did not protect them from exploitation while in prostitution.

⁶ See Department of Justice Northern Ireland, ‘Research Paper investigating the issues for women in Northern Ireland involved in prostitution and exploring best practice elsewhere’, January 2011

⁷ Article 5

⁸ See Everyday Sexism Project <http://everydaysexism.com/>; Hollaback! <http://www.ihollaback.org/>;

⁹ Macleod, Farley, Anderson & Golding, *Challenging Men’s Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution*, 2008

¹⁰ Women’s Rights Division, Human Rights Watch;

Child Protection

A significant number of women enter prostitution as children under the age of 18. We know that grooming of children for the purposes of sexual exploitation is rife in Northern Ireland, and that abuse networks exist across the country. Such networks are well placed to groom vulnerable young people for the purposes of sexual exploitation in the form of prostitution. Women's Aid would question the logic that a child who has been groomed or exploited into prostitution can then be considered to have made a 'choice' to be a prostitute upon turning 18 years of age.

The economics of prostitution

The majority of prostitution in Northern Ireland is rooted in poverty, marginalisation and desperation. Such sexual exploitation is an affront to human dignity and cannot be supported or sustained for any reason. Where desperation, marginalisation and victimisation exist, it is our duty to both dismantle the exploitative networks that sustain such abuse, and to provide those vulnerable people with alternatives and support.

Those in favour of legalisation would argue that prostitution must exist to 'help' those marginalised people who are prostituted. This same argument has been used to support enslavement of African-Americans, child labour, sweatshops and other forms of mass-organised exploitation and slavery throughout history. This is not the 'support' that the exploited need – they need real help in the form of viable economic alternatives to the sex trade, support to exit, protection from exploitation, and pathways to healthcare.

The voice of the pro-sex work lobby

In her evidence to the Justice Committee, former special advisor on human trafficking to the Swedish government Gunilla Ekberg stated ““We cannot deal with that problem by looking at a few individuals and saying that they make choices while ignoring 97% of the other women who are in prostitution and have a completely different experience... There will always be a few individuals who will speak out and say that it is their choice... The women who are not in a position to do that rarely get a place at the table.”

Women's Aid represents the women who are not in the empowered position to speak for themselves – women who have been trafficked and exploited, women who are unable to speak up about their ordeal due to the trauma they have experienced, women who cannot publicly speak about their experience of prostitution because they don't want their partner, children or community to know. These women are largely unrepresented in the debate about prostitution, and their voices are

overshadowed by the empowered minority, many of whom are in fact pimps and brothel owners.

There have also been arguments made about a woman's agency to choose to be in prostitution. But for the many women who are in prostitution because of poverty or desperate circumstances, there is very little agency or choice involved. Women's Aid's ethos is based on empowering women to help themselves – but this cannot take place in a vacuum. Where domestic violence is concerned, just because we believe in a woman's right to make her own choices does not mean we think there should be no legislation and policy aimed at helping women out of abusive relationships. Equally, we think there should be legislation and policies aimed at helping women being exploited in prostitution, and that this legislation should both target the perpetrators of exploitation and provide support for victims.

Will the Bill 'drive prostitution underground'?

Women's Aid rejects the contention that this Bill would 'drive prostitution underground'. The sex trade in Northern Ireland is already largely off-street, and is already operating largely online. The use of modern telecommunications such as the internet and mobile phones by pimps and traffickers to advertise and organise prostitution is nothing new. Prostitution cannot completely 'go underground' as it needs some form of publicity to attract sex buyers.

Is the Bill 'unpolicable'?

Women's Aid rejects the argument that this trafficking bill is 'unpolicable'. We would point out that exactly the same argument was put forward 30 years ago, when Women's Aid and other women's organisations were campaigning for better protections from domestic violence in Northern Ireland. We are now in a situation where, contrary to that initial belief, the PSNI are effectively policing domestic violence incidents and consistently improving their response to domestic violence. Reportage of domestic violence is at an all-time high, indicating that awareness raising and police work is succeeding in tackling domestic violence effectively.

We believe that the same can be said for human trafficking – while this Bill will require a different response from police to the issue of human trafficking, it is by no means unworkable. In Sweden, police have been responding to human trafficking along similar lines for over a decade. While Swedish police initially had the same concerns as we are hearing in Northern Ireland, their view has changed significantly

and the law is regarded as very helpful in prosecuting traffickers by having buyers in the trial process.¹¹

Prevalence of human trafficking

It is generally agreed that, like most crimes involving sexual violence, the numbers of trafficking victims reported to or recovered by police are the tip of the iceberg. Women's Aid carried out research on human trafficking in 2006¹², long before trafficking was regarded as affecting NI, because we were coming across trafficking victims in the course of our work. Women's Aid has been supporting women for many years who show signs of trafficking or sexual exploitation but either take a very long time to disclose or never in fact disclose to us. This can be due to a wide number of factors – fear, shame, desire for no one to know that they were ever in prostitution if they have since exited, or simply because they are not ready to talk about their ordeal. The very nature of the sexual exploitation is such that we may never know its full extent, just like domestic violence or rape. However, if we as a society had waited until we knew the 'full extent' of domestic or sexual violence before legislating, we would still be waiting for that legislation, and thousands of victims would be without protection and deprived of justice. And if we wait for definitive numbers of trafficking or exploitation victims before legislating, we will continue to fail victims of trafficking and exploitation in Northern Ireland.

Protection of women in prostitution

Women's Aid is encouraged that the Trafficking & Exploitation Bill explicitly does not criminalise those in prostitution. We strongly urge that further support measures are necessary to support women in prostitution to ensure their safety, health and well-being and to encourage them to seek help without fear of criminalisation, marginalisation or deportation, as well as the creation for clear routes out of prostitution for those that wish to exit. The Swedish or Nordic model is based on simultaneous criminalisation of buyers and decriminalisation of those in prostitution, and this support-based model is essential to the success of Clause 6. Women's Aid would be very happy to work with government to establish pathways out of prostitution and comprehensive support structures for women in and exiting prostitution.

¹¹ Evidence of Gunilla Ekberg to the Justice Committee,
[http://www.niassembly.gov.uk/Documents/Official-Reports/Justice/2013-2014/130912_HumanTraffickingetcBill\(BriefingfromLordMorrowetal\).pdf](http://www.niassembly.gov.uk/Documents/Official-Reports/Justice/2013-2014/130912_HumanTraffickingetcBill(BriefingfromLordMorrowetal).pdf)

¹² *Crossing Borders: Preliminary research on human trafficking in Northern Ireland*

Appendix 2: Supporting Evidence

Dudley, B., *Crossing Borders: Preliminary Research on Human Trafficking in Northern Ireland*, 2006:

http://217.35.77.12/research/nireland/welfare/Crossing_Borders_trafficking_report.pdf

Ekberg, Gunilla S., *Briefing on Swedish law and policies on prostitution and trafficking in human beings*, B.S.W., JD, 2012

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Macleod, Farley, Anderson & Golding, *Challenging Men's Demand for Prostitution in Scotland: A Research Report Based on Interviews with 110 Men Who Bought Women in Prostitution*, 2008

Northern Ireland Human Rights Commission, *Submission on the Policing and Crime Bill: Paying for sexual services of a controlled prostitute in Northern Ireland*, 2009.

Balos, B., *The Wrong Way to Equality: Privileging Consent in the Trafficking of Women for Sexual Exploitation*, Harvard Journal of Law and Gender, <http://www.law.harvard.edu/students/orgs/jlg/vol27/balos.pdf>

Bindel, J. and L. Kelly (2003). *A Critical Examination of Responses to Prostitution in Four Countries: Victoria, Australia; Ireland; the Netherlands; and Sweden*, <http://www.glasgow.gov.uk/CHttpHandler.ashx?id=8843&p=0>

Eckberg, G., *The Swedish law that prohibits the purchase of sexual services*, *Violence against women* 10(10): 1187 – 1218, <http://www.prostitutionresearch.com/pdf/EkbergVAW.pdf>

Farley, M. (2006). "Prostitution, trafficking and Cultural Amnesia: What we must not know in order to keep the business of sexual exploitation running smoothly." *Yale Journal of Law and Feminism* 18: 109 - 144. <http://www.prostitutionresearch.com/pdfs/FarleyYaleLaw2006.pdf>

O'Connor, M. and G. Healy (2006). *The links between prostitution and sex trafficking: a briefing handbook*. Dublin, Coalition against Trafficking in Women. http://ec.europa.eu/anti-trafficking/download.action;jsessionid=NS3XSz8JhwM0wSky3v3xd8G4tmZm17NrbXH91L3S2TZ2jQGFQdXG!378647602?nodePath=/Publications/The+Links+Between+Prostitution+and+Sex+Trafficking_A+Briefing+Handbook_en.pdf&fileName=The+Links+Between+Prostitution+and+Sex+Trafficking_A+Briefing+Handbook_en.pdf&fileType=pdf