



CONSERVATIVE PARTY HUMAN RIGHTS COMMISSION: INQUIRY INTO THE REFORM OF PROSTITUTION LAW

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Respondent's Details

Name: Ruth Breslin
Contact Details: Ruhama, 25 Cork Street, Dublin 8, Republic of Ireland
Tel: + 353 1 836 0292; ruth@ruhama.ie

Are you responding as an organisation/individual?

Responding on behalf of the organisation **Ruhama**.

Name of Organisation: Ruhama
Position in Organisation: Policy & Communications Manager

Ruhama¹ is a specialist NGO providing holistic support on a national basis in the Republic of Ireland to women affected by prostitution, including women who have been trafficked. We are the only specialist agency doing this work at a national level in Ireland. We have been providing our services for nearly 30 years and have worked with thousands of women of over 60 nationalities. We currently support approximately 300 women per year, including women involved in on-street prostitution (about 25% of our client group) and off-street prostitution (about 75%). We offer a wide range of supports, including:

- Needs assessment
- Individual casework support and advocacy
- Care planning and case management
- Out-of-hours emergency response
- Crisis accommodation in emergency situations
- One-to-one and group education, training and development opportunities
- Support for women participating in the criminal justice process
- Support into mainstream education, training and employment
- Housing and social welfare support
- Mobile street outreach to Dublin's 'red light' areas

¹ <http://www.ruhama.ie/assets/Press-Releases/Ruhama-Annual-Report-2016.pdf>

- Outreach service to the women’s prison in Dublin
- Outreach service to HSE Women’s Health Service (sexual health clinic)
- Emotional and psychological supports, including counselling
- Addiction support
- Support with immigration issues and repatriation
- Interpretive support
- Referral to other key agencies.

As Ruhama works primarily with women and transwomen in prostitution, our responses that follow relate primarily to women, as this is where our expertise lies, alongside the fact that the vast majority of people exploited in prostitution are women.

At the core of our work are the direct services we provide to the women who need our support. But we are also very active in advocating for social, political and legal measures that uphold these women’s rights, and contribute to the national and international fight against the global sex trade. To this end we were a key member of Ireland’s successful **Turn Off the Red Light (TORL) Campaign**² to introduce the ‘Nordic’ or ‘Equality’ model of prostitution legislation to Ireland via the **Criminal Law (Sexual Offences) Act, 2017**³.

Given our expertise in responding to the issues of prostitution and sex trafficking, Ruhama is often called upon to give evidence in other jurisdictions, and as such we believe that we are well-placed to make a submission to this Commission.

Call for Evidence questions:

1. Have you lived in a jurisdiction which has passed laws following either the full decriminalisation or Nordic models relating to prostitution? If so, please describe your experience.

Yes – Ruhama operates in the Republic of Ireland, which introduced laws on prostitution based on the ‘Nordic model’, via the *Criminal Law (Sexual Offences) Act, 2017*, which commenced in March 2017. Under the Act it became a crime to purchase sex under any circumstances, while individuals in prostitution were decriminalised. This important legal change puts the human rights of all women and girls in Ireland to the fore and challenges the gender inequality and exploitation which underpins the commercial sex trade. Irish legislators took note of clear evidence of the failure of efforts by other nations to try and legalise and control prostitution trades – which will always be linked to organised crime, trafficking and other violations of prostituted persons⁴.

This law is compatible with international human rights instruments: upholding dignity and recognising the vulnerability of the vast majority of those who are bought and sold for sex across the globe. However, this policy shift did not arrive overnight in Ireland, but was the culmination of a

² <http://www.turnofftheredlight.ie/who-we-are/>

³ <http://www.irishstatutebook.ie/eli/2017/act/2/enacted/en/html>

⁴ Joint Committee on Justice, Defence and Equality, June 2013. *Report on Hearings and Submissions on the Review of Legislation on Prostitution*. Dublin: Houses of the Oireachtas. Available at: <https://webarchive.oireachtas.ie/parliament/media/committees/justice/1.part-1-final.pdf>

long journey and lengthy national conversation which considered all sides of the debate surrounding prostitution and sex trafficking. This journey has already been documented by Ruhama⁵.

The bulk of prostitution is run by organised crime gangs in Ireland, often exploiting women both north and south of the border. Our new legislation in the Republic is very much supported by the fact that Northern Ireland introduced similar legislation on this issue prior to us in 2015 (via the *Human Trafficking and Exploitation Act*⁶), meaning that from a legislative perspective we are benefitting from an all-island-of-Ireland approach to tackling sexual exploitation.

Ireland's new legislation recognises the vulnerability of the vast majority of those in prostitution, and the gender inequality of a sex trade where it is overwhelmingly women and girls who are bought by men. The individual in prostitution is decriminalised and the target of the law becomes not just the pimps and traffickers, but the source of demand for prostitution: the sex buyer. Shifting the burden of the law from the seller to the buyer is an important step to ensure that those who are exploited can access justice and support services, including support to exit prostitution, without fear of punishment or judgment.

Our new legislation has been in place for just over a year now and as a frontline service provider Ruhama has observed a number of its initial impacts and benefits. We have seen some relief among the women in street prostitution we support when they are reassured that they are no longer criminalised. While still very early days since the passage of the law, there is also some emerging evidence that women in prostitution seem more willing to report violent crimes committed against them to the Irish police, and we have supported a number of women to do over the past year. Refocusing criminal sanctions on the buyer has also provided a strong basis for attitude change and encouragement to the police to take a genuinely victim-centred approach rather than a punitive one towards those who sell sex.

However, we are also critical of the extent to which the law has been implemented to date in Ireland – there is a serious dearth of official data on actions taken under the law, there have been no convictions or concerted police operations specifically targeting buyers yet, and no coordinated efforts have been made so far to raise awareness of the law amongst the general public, including sex buyers themselves. Given this lack of proactive implementation, the impact of the legislation in terms of the safety and welfare of those in prostitution cannot yet be assessed. That there is violence in the sex trade is a fact in every jurisdiction, highlighting one of its many harms – but the law to tackle sex buyers has had no observable impact on the extent of violence experienced in the trade because it has not even been tested properly.

We accept that legislation takes time to become embedded, and we know from the experience of other Nordic model countries that the positive impacts of a law such as this need time to take effect. Included in the *Sexual Offences Act, 2017* is a three-year review, which will assess the impact of the law in terms of actions against sex buyers, and on the safety and wellbeing of those who sell sex. Ruhama and our allies are consistently advocating for this crucial legislation to be fully and effectively implemented in the meantime to ensure the proper protection of those experiencing sexual exploitation and so that the law will have its intended effect – to deter sex buyers and in turn shrink the operations of a wholly exploitative trade.

⁵ Benson S., and Breslin R., 2017. *Upholding the Human Rights of the Most Vulnerable: 'Turning Off the Red Light' in the Republic of Ireland*. Dublin: Ruhama. Available at: <http://www.cap-international.org/wp-content/uploads/2017/07/%E2%98%8517.6.16.-Ruhama-TORL-Article-for-WHRIK%E2%98%85.pdf>

⁶ <http://www.legislation.gov.uk/niu/2015/2/enacted>

2. How do you think these two models - which have received the most attention in recent years – impact:

(a) The safety of those in prostitution?

AND

(b) The exploitation of foreign migrants and trafficked persons?

Prostitution is an inherently harmful institution and no amount of law-making will legislate that harm away. Instead the law should be used to penalise those who fuel, control and organise the sex trade with a view to stamping it out – namely the sex buyers, the pimps and the traffickers.

In our long experience, the vast majority of women in prostitution do not perceive their experiences in the sex trade as a ‘job like any other’. They are often highly marginalised women who have been directly coerced or otherwise drawn into prostitution, typically as a result of a range of vulnerabilities or adversities they have experienced in their lives including poverty, childhood abuse, domestic violence, physical and mental health problems, addiction, conflict in their home country, insecure immigration status, to name but a few.

The Nordic approach acknowledges the harms and exploitation inherent in prostitution and advocates for the full decriminalisation of those who sell sex on the basis that criminalising them is akin to punishing them for being exploited and, for many, for simply trying to survive. At the same time this approach targets those responsible for this exploitation. It is only by actively shrinking the trade and supporting women to exit that the safety of those who sell sex can genuinely be secured.

The organised sex trade is highly mobile globally and this is certainly evident in Ireland where Ruhama have supported women affected by prostitution of over 60 different nationalities, while it is estimated that 97% of women in Ireland’s off-street sex trade are migrants⁷. About one third of the women we support each year have been victims of sex trafficking. Clearly there is no benefit to criminalising these particularly vulnerable women, but the blatant exploitation of their vulnerabilities, and the profits that follow, are an excellent reason to clamp down on those responsible for their plight. It is also crucial to note the inextricable link between prostitution and trafficking, which is well-evidenced, and the fact that countries that have relaxed their prostitution laws have experienced a related increase in trafficking⁸.

In the Irish context there is ample evidence from research, from investigative reporting, from police, from agencies working on the ground and from the women involved in prostitution themselves of the widespread involvement of organised crime in the operation of the Irish sex trade⁹. Yet,

⁷ The Immigrant Council of Ireland, the Women’s Health Project and Ruhama, 2009. *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Dublin: ICI. Available at: <http://www.dublinpact.ie/dignity/traffickingreport.pdf>

⁸ Seo-Young, C. Dreher, A and Neumayer, E., 2012. *Does Legalized Prostitution Increase Human Trafficking?* Economics of Security. Available at: http://www.diw.de/documents/publikationen/73/diw_01.c.405653.de/diw_econsec0071.pdf

⁹ See for example: The Immigrant Council of Ireland, the Women’s Health Project and Ruhama, 2009. *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*. Dublin: ICI. Available at: <http://www.dublinpact.ie/dignity/traffickingreport.pdf>; RTE Primetime: *Profiting from Prostitution*, 2012, available at: <http://www.rte.ie/news/player/prime-time-web/2012/0207/>; and RTE Investigates: *Sex for Sale*, 2016, available at: <https://www.rte.ie/news/investigations-unit/2015/1207/751789-sex-for-sale/>

somewhat unbelievably, legislative models involving the decriminalisation of the trade as a whole make ‘respectable business people’ out of pimps and traffickers. The full decriminalisation of the entire trade (including of brothels and those who run them, of those who benefit from the earnings of the prostitution of another, and of the buyers), literally provides those who control the sex trade with a *carte blanche* to operate with near impunity. This is certainly in evidence in New Zealand, where under the fully decriminalised regime enshrined in the *Prostitution Reform Act, 2003* (PRA)¹⁰ the following has been observed:

1. A rise in the number of unregulated brothels, and in ‘price wars’ in both the on and off-street sectors, both of which would suggest expansion of the sex trade as a whole
2. An increase in the number of brothels controlled by organised crime gangs; in particular gangs run by Chinese nationals exploiting vulnerable Chinese women and girls
3. A rise in the prostitution of girls under the age of 18, including in on-street prostitution
4. Police reports that the PRA makes it more difficult than before to prosecute men who purchase sex from a minor because they are not required to obtain proof of age, accompanied by a very low number of actual convictions for purchasing a child in prostitution – this situation led to the very MP who designed the PRA calling for an investigation into the prostitution of children in NZ
5. Continuing overrepresentation of vulnerable indigenous (Maori and Polynesian) women and girls under 18 in the domestic sex trade
6. An increasing number of migrant women in NZ brothels, working illegally and therefore not afforded any kind of ‘worker’ protections
7. *“The violence that women suffer in prostitution from routine sexual harassment through to assault continues, and Occupational Health and Safety codes are ludicrously unsuited to addressing these harms”*
8. *“Decriminalisation in New Zealand enables the state to become a pimp through profiting in license fees and in taxes from this form of violence against women.”*¹¹

In New Zealand there is certainly evidence of the involvement of crime gangs in the operation of the trade and the direct sexual exploitation of women and girls. This is because decriminalised regimes are a more attractive destination for traffickers and pimps, and despite New Zealand’s geographic isolation, and the promise of the PRA to enhance safety in the trade, the trafficking and coercion of vulnerable migrants in New Zealand remains a reality. In 2015, and echoed again in 2017, the US State Department’s annual global ‘Trafficking in Persons Report’ documents the following:

*“Foreign women from China, Hong Kong, Taiwan, South Korea, Thailand, and Vietnam are at risk of coercive or forced prostitution. Some international students and temporary visa holders are vulnerable to forced labor or prostitution. A small number of Pacific Islands and New Zealand (often of Maori descent) girls and boys are at risk of sex trafficking in street prostitution, and some are victims of trafficking in gangs. Some children are recruited by other girls or compelled by family members, into prostitution.”*¹²

You note in your Call for Evidence that: *“We are aware of the different legislative approaches to prostitution taken across the world, and we have yet to see unequivocal evidence that any one approach is better at tackling harm and exploitation, which remains our priority.”* But given that you

¹⁰ <http://www.legislation.govt.nz/act/public/2003/0028/latest/DLM197815.html>

¹¹ Instone, T., and Margerison, R., 2007. *Shadow Report for the CEDAW Committee on New Zealand from: Coalition Against Trafficking in Women New Zealand*. New Zealand: CATW.

¹² United States of America Department of State, July 2015. *Trafficking in Persons Report*. United States: Department of State. Available at: <http://www.state.gov/j/tip/rls/tiprpt/2015/>; see also: <https://www.state.gov/documents/organization/271344.pdf>

are really focusing on just two models – the Nordic model and full decriminalisation – surely it is basic common sense that the approach that actually directly tackles the exploiters (the Nordic model), rather than the one that gives them free reign to operate with impunity (full decriminalisation), is the one that is actually going to successfully reduce harm and exploitation?

(c) Exiting services?

If prostitution is ‘sex work’ or ‘a job like any other’ (as is posited under full decriminalisation regimes) then why do we want people to leave prostitution and why would we feel the need to support them to do so? What other professions require a formal ‘exit service’? Simply put, the need for exiting support for vulnerable people wishing to leave prostitution forms a crucial pillar of the Nordic model, while under the decriminalisation model this is perceived as an entirely unnecessary service to provide at worst, and a hypocritical, contradictory, tokenistic offering at best. Under full decriminalisation regimes dedicated exiting support services are usually seen as low priority, poorly funded and typically fail to thrive.

Conversely, States that have introduced the Nordic model tend to recognise the vital importance of supporting women to access real, viable alternatives to prostitution that are sustainable for their future. A great deal of Ruhama’s work with women seeking to exit prostitution, delivered via both our casework and Education & Development Programme, focuses on upskilling and equipping women to enter the formal labour market and pursue career plans and professional goals.

3. What legislative change would you like to see? How would it affect the daily reality of those in prostitution?

From our external perspective there have been far too many inquiries and consultations on prostitution legislation in the UK context and yet little progress and few decisions made on securing an appropriate solution – this is the fifth submission we have made on this issue to a UK jurisdiction since 2015 alone¹³. It is high time for real political leadership on this issue in the UK and we would urge the Conservative Party to demonstrate such leadership. It is clear from this response that we are in full support of the Nordic approach to prostitution for the whole of the United Kingdom and wish to make a number of specific recommendations in this regard:

- The burden of criminality in relation to prostitution should be placed on the shoulders of sex buyers rather than those who sell sex – all current legal sanctions on persons for selling sex should be repealed and criminal records for historic prostitution-related offences should be wiped¹⁴
- A blanket ban on the purchase of sex as the only genuinely workable way in legislation to discourage the demand which drives commercial sexual exploitation. This approach is in line with a range of key international human rights instruments that recognise the harm inherent in prostitution and define sexual exploitation as a human rights violation that is profoundly gendered¹⁵. The Convention on the Elimination Of All Forms Of Discrimination Against Women (CEDAW), to which the UK is a signatory, calls on all State Parties to ‘take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of

¹³ <http://www.ruhama.ie/resources/policy-submissions-by-ruhama/?start=0>

¹⁴ For more on this see: Harvey H., Brown L., and Young L., 2017. *I’m No Criminal: Examining the Impact of Prostitution-Specific Criminal Records on Women Seeking to Exit Prostitution*. London: nia. Available at: <http://www.niaendingviolence.org.uk/perch/resources/im-no-criminal-final-report.pdf>

¹⁵ As defined in the United Nations Declaration on the Elimination of Violence against Women.

prostitution of women¹⁶, and it is noted that ‘These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.’¹⁷

- It is essential that the UK as a whole takes note of the progressive moves by many of its European neighbours to tackle the harms of the sex trade by criminalising demand – this is the approach already in place in Sweden, Iceland, Norway, Northern Ireland, France and now the Republic of Ireland. In general, as the work of the European Parliament attests¹⁸, this is the direction that Europe is now taking to address prostitution, and the UK would be wise to follow suit, not least so that it does not become renowned as an easy target for pimps and traffickers in contrast to many of its European counterparts
- Where specific assistance to exit prostitution is directly supported by legislation, this further strengthens the case for specialist provision in this regard, which obviously needs to be backed by sufficient funds to deliver this support on a nationwide basis
- Those who profit from the prostitution of another person should be heavily sanctioned for this crime of exploitation. This includes pimps (in some cases those in an intimate relationship with the women they profit from), traffickers, those who organise prostitution, brothel keepers or those who knowingly rent out premises for the purposes of prostitution, and any other third party who benefits from the prostitution of another. It is further recommended that sanctions for exploiters should be brought in line with the size of the profits to be gained, and that this is of particular importance in the case of those who manage and organise prostitution on a large-scale and/or as part of a wider criminal networks.

In summary, you state that: *“The overarching goal of this Inquiry is to consider how best to reduce sexual exploitation, linked to prostitution, and its attendant abuses together with improving protection for vulnerable individuals, including trafficked people.”* If that is indeed your goal then the only possibly workable solution to reducing sexual exploitation, abuse and trafficking is to choose the legislative approach that actually tackles and seeks to prevent the activities of exploiters, abusers and traffickers, while ensuring that those prostituted do not receive any criminal sanction for their own exploitation – namely the Nordic model.

4. At what point does prostitution become exploitation?

Prostitution is an inherently exploitative institution/practice. Exploitation occurs the moment someone engaged in prostitution provides sex acts for something of value (be that money, drugs, food, a roof over their heads etc.), not because they genuinely desire to have sex with that person, but because they are in real (and sometimes desperate) need of whatever valuable thing that person is offering in return. The women we support typically describe engaging in prostitution because they were being directly coerced and controlled, or because they felt that they had no other choice in order to survive – these are not circumstances that can be understood as compatible with genuinely consensual sex. In the vast majority of cases the prostitution ‘transaction’ involves a significant

¹⁶ As outlined in Article 6 of the Convention on the Elimination Of All Forms Of Discrimination Against Women (CEDAW).

¹⁷ General Recommendation 19 of the CEDAW Committee.

¹⁸ *European Parliament resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI))*. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A7-2014-0071+0+DOC+PDF+V0//EN> – note that there was overwhelming cross-Parliament support for this EP resolution to address prostitution as a form of violence against women and criminalise demand in its final vote – 343 MEPs in favour, 139 against, 105 abstentions.

power imbalance between buyer and seller – in terms of physical strength, in terms of social capital and societal standing, and in terms of economic power.

5. Additional comments

In undertaking this Inquiry, we would ask you to also consider the following:

1. The *majority* of women involved in prostitution do not describe their experiences as ‘work’ or call themselves ‘sex workers’. Positioning prostitution as a ‘regular job’ serves to sanitise something that is inherently exploitative, and mask or deny the significant harms involved
2. It is also worth noting that ‘sex workers’ is a very broad term used to describe a diverse group that can include those who run or own brothels and/or escort agencies. This means that consultation with sex workers or ‘sex work advocates’ may include the views of those who directly profit from the prostitution of others. Unsurprisingly, those who directly benefit from the commercial sex trade are of course going to support any proposals that give free reign to their profit-making activities
3. The Irish experience shows us that there are indeed women, often well-educated, articulate and typically from stable family backgrounds, who make the personal choice to sell sex. A number of these are passionate, vocal advocates and have every right to ‘fight their corner’. But in devising legislative responses to prostitution, it is vital to not only focus your attentions on this more privileged minority, but to hear from and listen carefully to the much larger and more vulnerable majority cohort of women involved in prostitution who do not perceive their experiences in prostitution as a ‘job like any other’
4. It is sometimes argued that exiting support is expensive to provide. However, we would argue that the implications for the Exchequer in not ensuring the provision of this support are very significant – dealing with the human cost of prostitution is already a huge burden on the public purse, as research has demonstrated: <https://prostcost.files.wordpress.com/2015/09/prostcost-vang-web2.pdf>¹⁹, whilst proper investment in exiting support can offset the very significant longer-term costs to public services and society that result from the harms of experiencing sexual exploitation.

¹⁹ Mouvement du Nid and Psytel, 2015. ‘ProstCost’: *Estimate of the Economic and Social Cost of Prostitution in France – Summary of the Study’s Results*. Available at: <https://prostcost.files.wordpress.com/2015/09/prostcost-vang-web2.pdf>