



# Ruhama

Supporting women affected by prostitution

## SUBMISSION TO THE REVIEW OF PART 4 OF THE CRIMINAL LAW (SEXUAL OFFENCES) ACT 2017

SEPTEMBER 2020

**RUHAMA, 30/31 CAMDEN ST. LOWER, D02EC96**

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## Introduction

Ruhama welcomes the opportunity to contribute to the current Review of the Operation of Part 4 of the Criminal Law (Sexual Offences) Act 2017 being undertaken by the Department of Justice and Equality. It does so from a perspective that sees the experience of most women in prostitution, whether as victims of human trafficking or not, as one that risks physical and psychological harms. We see the business of commercial sexual exploitation as inimical to human rights and dignity, and, as such, a deep and pressing issue for any society whose mission involves equality.

The objectives of Part 4 of the Act<sup>1</sup> are:

- to target the trafficking and sexual exploitation of persons through prostitution.
- to combat the wider exploitation of persons involved in prostitution outside of those trafficked such as those who are coerced or otherwise forced through circumstances to engage in the activity.
- to decriminalise the women and men involved in prostitution.

Our work in Ruhama concerns itself with social justice, gender equality and protecting the most vulnerable in society. We are therefore supportive of the central aim of this legislation to combat exploitation and coercion in prostitution and to target the trafficking of persons into the sex industry by reducing demand. The significance of the 2017 legislative reform, which is now under review, was that it decriminalised the seller of sexual access and transferred the historic burden of stigma and criminality to where it correctly belongs, with the purchaser of sexual services.

## Introduction to Ruhama

Ruhama is a unique Irish frontline NGO providing support to women affected by prostitution and sex-trafficking for over three decades.

### **Ruhama's mission is to**

- Reach out and provide support services to service users affected by prostitution and other forms of commercial sexual exploitation
- Based on individual need, offer assistance to explore alternatives to prostitution
- Work to change public attitudes, practices and policies which allow the exploitation of women through trafficking and prostitution

Since our foundation in 1989, we have supported thousands of women from over 60 nationalities. At the core of our work is the provision of direct, frontline services to women who require our support. At the same time, we work at a national and international level to influence the development and implementation of broader policies and legislation which tackle sexual exploitation, and ultimately enhance the lives of women affected by the global sex trade. At the national level, Ruhama was a core member of the Turn Off the Red Light campaign, is a member of National Women's Council Ireland, and is represented on the National Observatory on Violence against Women, the Monitoring Committee of the Second National Strategy on Domestic, Sexual and Gender-based Violence, the Victims' Rights Alliance and the South Inner City Drugs and Alcohol Task Force. At the international level, Ruhama is a member of the Coalition for the Abolition of Prostitution ([CAP International](#)) and the [Brussels' Call](#) campaign of the European Women's Lobby. We are also represented at the EU Civil Society platform against Trafficking in Human Beings.

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<sup>1</sup>Former Minister for Justice and Equality, Frances Fitzgerald TD, [Seanad Éireann debate - Tuesday, 6 Oct 2015](#).

We currently provide support to over 400 women per year<sup>2</sup>, including women involved in both on-street prostitution and indoor prostitution.

We offer a wide range of supports, including:

- ✦ Individual casework support and advocacy
- ✦ Care planning and case management
- ✦ Crisis accommodation in emergency situations
- ✦ Education and Development programme
- ✦ Bridge to Work programme
- ✦ Counselling
- ✦ Mobile street outreach to Dublin's 'red light' areas
- ✦ Outreach service to the women's prison in Dublin
- ✦ Support with immigration issues and repatriation
- ✦ Interpretive support

In 2019 we worked with 415 women of 44 nationalities, 266 of whom availed of 1-1 casework support<sup>3</sup>. 116 of the women we worked with were victims of trafficking. While the majority of those in on-street prostitution are Irish women, many of whom are affected by substance misuse and homelessness, most of the women in the indoor sex trade are migrant women. The broad spectrum of nationalities of the women with whom we work reflects the ongoing transnational nature of the organised sex trade in Ireland.

The experiences of our service users reflect extensive, international research on the harms caused to individuals in the sex trade as a direct result of commercial sexual exploitation. These include experiences of sexual violence and rape, physical assault, robbery, depression, anxiety, low self-esteem, trauma and post-traumatic stress disorder and extensive issues with reproductive and sexual health. We continuously hear and see the high level of trauma that women have endured from sex buyers. '*I was fucked until I was broken*' as quoted from a survivor who explained the mental impact far exceeded the physical impact & despite twenty years on from leaving prostitution, she is still traumatised and experiences regular nightmares. The majority of those with whom we work come from backgrounds of deprivation, marginalisation, abuse and/or impoverishment.

We work with women who are currently active in prostitution, women who have a history of prostitution and women who are victims of sex trafficking. As an organisation, we meet women at the stage they are at and all of our services are confidential and free.

## Ruhama's perspective on the objectives of the Criminal Law (Sexual Offences) Act 2017

Ruhama began advocating for the introduction of the partial decriminalisation (Equality/Nordic model) of prostitution legislation in 2002, 3 years after Sweden introduced the explicit decriminalisation of those who sell sexual access, alongside the criminalisation of sex buyers in order to address the demand for prostitution. In 2010, we joined the Turn Off the Red Light campaign and campaigned alongside 72 civil society organisations working with victims of exploitation and abuse, children's rights' organisations and trade unions for the introduction of the Nordic Model of prostitution legislation in Ireland.

We note that throughout this submission, we will refer to the Nordic model interchangeably as the Equality model, partial-decriminalisation model or gender-specific model as each of these terms

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<sup>2</sup> Forthcoming Ruhama Annual Report 2019 (due late September, 2020).

<sup>3</sup> Ibid

denotes essential aspects and features of this particular legislative approach that Ireland has embraced.

The Equality Model means that women who sell sex can do so legally. This means that they have access to the protections of the law, for example if they need to report an assault. The Equality Model criminalises the buying of sex in an effort to deter men from seeking the services of prostituted women. It is also illegal to “pimp” a person for sex or to operate a brothel. This model has been adopted in other countries such as Sweden, Norway, Iceland, Canada, France and Israel. The goal of the Equality Model is essentially to protect women while deterring men from buying sex in an effort to reduce demand and ultimately end exploitation. The Equality Model was approved as the best model to address prostitution by the European Parliament in 2014<sup>4</sup> and by The Council of Europe in 2014.<sup>5</sup>

Evidence shows that the Equality Model has been successful in reducing the demand for prostitution. A Swedish Government report was commissioned to assess the effectiveness of the Equality Model, and the results showed a clear positive impact. The buying of sex has decreased from 13.6% in 1996 to 7.9% in 2008,<sup>6</sup> and since the Equality Model has been introduced the rate of prostitution has been declining overall. We can see this most clearly when we compare Sweden with neighbouring countries Denmark and Norway, both of which had significantly higher rates of prostitution prior to introducing the Equality Model themselves i.e. Norway had 8 times more prostitution than Sweden before introducing the law.<sup>7</sup> Furthermore, contrary to statements from pro-prostitution lobbyists, there is no evidence to suggest that the Equality Model has led to increased violence against women in prostitution<sup>8,9</sup>

Changing public attitudes has been key to the success of the Equality Model in Sweden with 70-80% of people supporting the law.<sup>10</sup> This change in attitudes is what has reduced demand for prostituted women and increased public support for measures to provide exit strategies and better care for prostituted or at risk women. In Ireland, it’s clear that much work is yet to be done on educating the public first and foremost about the existence of the law, and secondly about the impact the law can have. Only by increasing public awareness and support can the Equality Model be a success.

Ruhama sees prostitution as a form of gender based violence and an institution built upon the exploitation of the bodies of the most vulnerable and marginalised women and girls across the world. Prostitution is both a cause and consequence of inequality between the sexes, and a significant barrier to achieving gender equality. Our understanding of prostitution stems from decades of working on the coalface with women affected by prostitution and sex trafficking. Extensive research also showcases the gendered phenomenon of prostitution, its harms, and its inextricability from trafficking for the purpose of sexual exploitation.

The partial-decriminalisation model enacted in Ireland in 2017 recognises the inherent power imbalance between the individual selling/sold for sexual access in prostitution on the one hand and the purchaser of sexual services on the other.

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<sup>4</sup> Sexual exploitation and prostitution and its impact on gender equality - A7-0071/2014.

<sup>5</sup> PACE - Resolution 1983 (2014) - Prostitution, trafficking and modern slavery in Europe.

<sup>6</sup> Swedish Government Offices (Statens Offentliga Utredningar) (SOU) 2010. Forbud mot kop av sexuell: En utvardering 1999–2008 [Prohibition of the Purchase of Sexual Services: An Evaluation 1999–2008].

<sup>7</sup> Ibid point 6.

<sup>8</sup> Ibid point 6.

<sup>9</sup> O’Connor, M., and Breslin, R. (2020, forthcoming), *Shifting the burden of criminality: (An analysis of the Irish sex trade in the context of prostitution law reform. Dublin)*, The sexual Exploitation Research Programme, UCD.

<sup>10</sup> Ibid point 6.

Since 1989, we have worked with thousands of women and witnessed how the system of prostitution negatively impacts the health, safety, dignity and wellbeing of those entrenched in it, as well as the barriers that women face when attempting to exit the sex trade. Over the past three decades, we have witnessed the impacts of globalisation and increasing global inequalities on the commercial sex trade, as prostitution moved from the streets to indoor locations where transnational organised crime networks groom, traffic and exploit women for financial gain. Many of the women with whom we have worked have overcome the numerous barriers in front of them to carve out alternative futures for themselves. Others have not survived.

It is rare that any piece of legislation passed in Ireland has attracted as much scrutiny, debate and discussion as the Criminal Law (Sexual Offences) Act 2017. In 2012, the then Minister for Justice, Equality and Defence, Alan Shatter, launched a Discussion Document on [the] “Future Direction of Prostitution Legislation in Ireland”. This document was referred to the Joint Oireachtas Committee on Justice, Defence and Equality who sought submissions from the public. Over 850 submissions were received by the Committee on the matter, and there were weeks of consultations with relevant groups. The subsequent report emerging from the extensive consultation process advocated for the introduction of prostitution legislation that would decriminalise the individual in prostitution and criminalise those who purchase sex. It also noted “the breadth and depth of evidence on the nature and effects of prostitution” which was put forward in submissions and concluded that the harms and criminality of prostitution “outweigh any considerations in favour of voluntary prostitution where it does occur.”

The Criminal Law (Sexual Offences) Bill 2015 (as the 2017 Act was initiated) underwent a number of positive changes following extensive lobbying from NGOs working with women, men and children who experience, or are at risk of, violence and/or exploitation. We strongly welcomed the removal of the Public Order Offence under Part 4 of the Bill which decriminalised those involved in on-street prostitution, in keeping with the spirit of the Act to protect vulnerable persons.

The criminalisation of sex buyers was an important step on the road to reducing the demand that fosters sexual exploitation. The greatest deterrent to sex buyers is the risk of arrest and public exposure. The law also sends a clear message to society in general that the purchase of sexual access to vulnerable individuals is not tolerated in a country that values women and girls. Finally, it clearly communicates that true and meaningful sexual consent in Ireland is not something that can be bypassed with money.

## Ruhama’s perspective on implementation of the Criminal Law (Sexual Offences) Act 2017 to date

We welcome the actions that have been taken in the context of implementing the 2017 Act. However, actions in this regard were slow to be implemented throughout 2017 and 2018 and we frequently expressed concern with this. In January 2019 we saw the first conviction of a sex buyer, in addition to almost 100 suspected sex-buyers respectively stopped and questioned under Part IV of the 2017 Act. These actions serve the dual purpose of holding buyers to account and raising awareness of the legislation, which is crucial in order to fulfil the normative aspect of the law. In 2020, we have seen no action to date in relation to the targeting of sex buyers in Ireland. While the Covid pandemic decreased demand, sex buyers did evade lockdown measures to sexually access women in prostitution. As the lockdown has lifted, we have seen an increase in the numbers of women advertised online once again and an increase in sex buyers contacting them. This legislation must continue to be enforced and implemented effectively. If buyers are not being targeted through this law, they will continue to operate with impunity.

Our points below are based on the implementation of the law itself, as well as on efforts to raise awareness about the legislation:

## Service Users perceptions of the law

- Some women accessing our services have reported feeling more confident to report incidences of violence to An Garda Síochána now that they have been explicitly decriminalised for the sale of so-called sexual services. Prior to this legislation, women in on-street prostitution were frequently criminalised under prostitution laws for public solicitation and reported high levels of mistrust in the Gardaí.
- Since the change in legislation, women who experience aggravated violence in prostitution have experienced better outcomes in the criminal justice system, while perpetrators of rapes, assaults and robberies have been held accountable for their actions.<sup>11</sup>

## Relevant collaborations with An Garda Síochána

Ruhama works closely with An Garda Síochána, particularly the Operation Quest team and the Garda National Protective Services Bureau, to respond to cases of commercial sexual exploitation and seek positive outcomes for those in the sex trade. Ruhama welcomes this relationship and cooperation in accessing justice for women in prostitution.

- Gardaí frequently refer women into Ruhama's services when they encounter them while implementing the laws on prostitution.
- Ruhama offers accompaniment and advocacy for women who wish to report violence and exploitation, in order to offset the fears instilled by pimps and traffickers regarding the Irish authorities and the criminal justice system, as a strategy to keep women under control. They may also threaten and/or cause violence to women and their families if they report them to authorities. This can be a difficult barrier to overcome and women often need additional support to report crime, so cooperation in this regard is crucial.
- Ruhama works with the Operation Quest team to organise a number of training sessions each year on prostitution with Gardaí. This training raises awareness of prostitution, its impacts on women, women's experiences with Gardaí (positive and negative), the legislation and the best approach from a policing perspective. The training takes a gender-sensitive and victim-centred approach and has received very positive feedback to date. We continue to work with Gardaí to build upon the training and increase positive outcomes for women.
- Ruhama also welcomed the 'Crimecall' segment in April 2019 to raise awareness of the law criminalising the purchase of sex which featured Declan Daly (Chief Superintendent of the GNPSB), Sarah Benson (former CEO of Ruhama), and 'Mary' (a Ruhama service user who was trafficked into prostitution from her home country in Africa). This feature created a lot of discourse on the commercial sexual exploitation and raised awareness of the legislation, as well as the devastating and enduring impact of sex trafficking. During her interview, 'Mary' spoke of how she was chained to a bed and

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<sup>11</sup> See for example:

<https://www.irishexaminer.com/news/arid-30965447.html>

<https://www.irishexaminer.com/news/arid-30988288.html>

<https://www.independent.ie/irish-news/courts/ex-rugby-player-avoids-jail-for-violent-attack-on-transgender-escort-after-dispute-over-cash-38902006.html> (while not a commensurate sentence, her attacker was convicted).

forced to wear lingerie, while men repeatedly came into the room and raped her. While the majority of trafficking victims are not physically restrained, her story is another indicator of how sex buyers do not care whether women are victims of trafficking or not.

## Brothel keeping issues

The issue of brothel keeping has arisen frequently in relation to the Criminal Law (Sexual Offences) Act 2017. It is important, however, to understand that brothel keeping laws are not a recent introduction but were provided for previously in Section 11 of the Criminal Law (Sexual Offences) Act 1993. This is the legislative approach to the sex industry in Ireland which stresses the importance of criminalising third party organisers of prostitution, which is an approach that the new legislation upholds. It is a strong indication that profiting from and sexually exploiting others is unacceptable. However, there has been some concern that women who are not profiting from the exploitation of others have on occasion been incorrectly targeted by the law. This concern was most widely evidenced and discussed in relation to the June 2019 conviction of two young Romanian women for brothel keeping, one of whom was pregnant. The women were sentenced to nine months in prison having pleaded guilty, while it is noted that they are appealing and have not to date served any time in jail.

Young, vulnerable women such as these were not the intended target of this law, and many expressed concern at their arrest and conviction. Similarly, concerns regarding unnecessary targeting women were expressed by a number of advocates of the partial-decriminalisation approach. For instance, Ruhama publicly stated that we were *'appalled by the sentencing of the women and that we "strongly opposed" the use of existing legislation against individuals working in prostitution themselves'...* *'legislation against brothel-keeping, which has been in Ireland for decades, should be used to target the organisers and criminal gangs who are controlling the bulk of the sex trade in Ireland'*.<sup>12</sup> The Irish Human Rights and Equality Commission (IHREC) in their submission to the UN Committee on the Elimination of Racial Discrimination recommended that the State review the operation of Section 11 of the Criminal Law (Sexual Offences) Act 1993 concerning the interpretation of 'brothel keeping'.<sup>13</sup> While the HLWG in commenting on this case said 'there is a need to work with those enacting and implementing the legislation to ensure the exploiters are the target of criminal sanctions and those exploited are protected'.<sup>14</sup>

Legislation targeting the third-party organisers of prostitution is vital, and laws against brothel-keeping must be in place to act as a deterrent to organised crime and others who seek to exploit the prostitution of others. Gardaí have emphasised that in any investigations into brothel keeping/organised prostitution: *"The policy of An Garda Síochána is to treat women involved as witnesses/victims unless significant evidence comes to light suggesting direct involvement in organised prostitution or brothel keeping."*<sup>15</sup> In order to ensure that Gardaí carry out due diligence when encountering and investigating brothels, training must be further resourced across the force so that all Gardaí encountering potential situations involving third-party exploitation are familiar

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<sup>12</sup> Pollak, S (10 June 2019) *Jailing of sex workers keeping brothel shows law "not fit for purpose"*, The Irish Times.

<sup>13</sup> IHREC (2019) *Ireland and the Convention on the Elimination of Racial Discrimination Submission to the United Nations Committee on the Elimination of Racial Discrimination Ireland's Combined 5th to 9th Report*.

<sup>14</sup> Shannon, G (2020) High Level Working Group (HLWG) *Interim Report of the High-Level Working Group: The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV – An Interim Review* P.10.

<sup>15</sup> <https://www.garda.ie/en/About-Us/Our-Departments/Office-of-Corporate-Communications/Press-Releases/2012/May/Operation-Quest-29th-May-2012.html>.



with the landscape of prostitution in Ireland, the need to thoroughly investigate, and the need for a victim-centred and gender-sensitive approach to policing prostitution.

### Awareness raising

We received funding from the Department of Justice and Equality to carry out an awareness-raising campaign on the legislation criminalising the purchase of sex, which was welcome. This allowed us to work in collaboration with the Men's Development Network, SPACE Intl, the Sexual Violence Centre Cork and Persuasion Republic– and to develop the *We Don't Buy It* campaign, launched in March 2020.<sup>16</sup>

The *We Don't Buy It* campaign was supported by the mainstream media at a national and regional level. The online campaign advertising, aimed at the male population, generated over 6.5 million impressions over this period.

As part of the *We Don't Buy It*, a nationally representative survey was carried out in Autumn 2019 via a Red C survey. The survey found the following:

- 53% of the Irish public support the criminalisation of the purchase of sex;
- Most respondents were aware that women in prostitution experience violence and abuse at the hands of sex buyers, and that women often enter prostitution due to a lack of choice or third-party exploitation;
- 6% of men said they had purchased sex (this figure was 8% in a previous survey in 2015, two years prior to the legislation);
- Most people believe the Gardaí need more resources to enforce the legislation;
- Worryingly, male respondents and younger people were less likely to show empathetic attitudes to women in prostitution and more likely to believe that money could buy consent

### Exiting prostitution

Ruhama is concerned that insufficient resources have been provided by the Irish State into providing comprehensive exit supports for women affected by prostitution and sex trafficking. Increased exit supports were promised at the adoption stage of the law, in recognition of the fact that the majority of women want to exit prostitution at some point but often feel as though they have no viable alternatives. *"I don't want to be here. The way the men talk to me, it's disgusting. I'd do anything to not have to be out here but I don't see any other option"* (service user in on-street prostitution).<sup>17</sup> Ruhama supports women to exit, but we are constrained by resources and there is a notable deficiency in exit supports across the board.

There are a number of barriers faced by women in exiting the sex trade, including:

- Poverty and a lack of viable alternatives
- Being under third-party coercion, violence and control from pimps, traffickers and/or intimate partners
- Homelessness and a lack of safe, gender-specific accommodations – both emergency and longer-term
- A lack of formal educational qualifications
- Psychological trauma and post-traumatic stress disorder
- Substance misuse and addiction
- Immigration status

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<sup>16</sup> Subsequent regional in-person launches had to be postponed due to the Covid-19 pandemic, but campaign activities will resume in Autumn, 2020.

<sup>17</sup> Forthcoming Ruhama Annual Report 2019 pg. 10.

- Isolation – geographical and emotional

## Prostitution & COVID-19

The vulnerability of women and girls to this particular form of criminality has been exacerbated by the COVID-19 pandemic, and it 'has had immediate and severe impacts on women in the sex trade who are already among the most vulnerable women on the planet'.<sup>18</sup> When the whole world experienced uncertainty, the one thing that was certain was that men still purchased sex and most alarming was that some men wanted sex without a condom during a global pandemic. It has increased the risk for women of being abused and trafficked or put at risk of contracting the virus.<sup>19</sup> While some in prostitution may be entitled to state social support, this does not apply to many domestic and most migrant women. 'In other parts of the world, restrictions of movement and economic hardship are forcing women into the sex industry, where they may engage in riskier behaviour to ensure food and shelter for themselves and their families, including lowering prices and engaging with potentially infected buyers.'<sup>20</sup> *'Anytime there's this type of panic,' said a prostituted woman, "clients [sex buyers] understand that as a shift in power." For women with no alternatives, "some clients try to take advantage of that. They will push for lower prices, they will push for not having to screen, they will push for unsafe work practices — whether that's bareback or meeting someone you don't know or meeting in an unsafe location or being forced to push your own personal boundaries of what you're willing to do," she explained.*<sup>21</sup> Now more than ever it seems, we need this legislation and we need the supports it requires to make it work.

## The barriers to full implementation

- Insufficient resources were allocated to Gardaí in order to effectively police prostitution and hold sex-buyers accountable.
- Low level of convictions: without convictions, buyers will believe that they will get away with their actions. A clear message must be sent through carrying out further Days of Action.
- High burden of proof: If the burden of proof is too high to secure convictions, an alternative would be to look to how other countries implement legislation targeting sex buyers – for example, the potential for adult cautions or on-the-spot fines.
- Lack of public exposure as a deterrent: The biggest deterrent to sex buyers is the risk of arrest and public exposure. While one of the men convicted in 2019 was named in the press, the others were not.

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<sup>18</sup> Farley, M (2020) *Prostitution, the sex trade and the COVID-19 Pandemic*, Logos, Available: <http://logosjournal.com/2020/prostitution-the-sex-trade-and-the-covid-19-pandemic/>.

<sup>19</sup> UN Women (2020) *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, p.6 Available: <https://www.unwomen.org/en/digital-library/publications/2020/08/policy-brief-covid-19-and-conflict>.

<sup>20</sup> UN Women (2020) *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, p.6 Available: <https://www.unwomen.org/en/digital-library/publications/2020/08/policy-brief-covid-19-and-conflict>.

<sup>21</sup> Farley, M Op cit.

## Recommendations for implementation of the Criminal Law (Sexual Offences) Act 2017

- An Garda Síochána are adequately resourced to target sex buyers, maintain and increase efforts to hold buyers accountable and protect the most vulnerable in the sex trade.
- Further training for frontline Gardaí from across the entire force ought to be furnished with information on the legislative framework around prostitution in Ireland and to encourage a victim-centred and gender-sensitive approach to policing prostitution to ensure that vulnerable persons are protected.
- We recommend that all stakeholders continue to work closely and increase collaborative efforts to raise awareness of the harms of prostitution and sex trafficking as well as the legislative framework that targets all those who benefit from the sexual exploitation of others – pimps, traffickers, criminal gangs and sex buyers alike.
- The provision of exit supports for those in prostitution must be enshrined into policy in Ireland, and resources expanded so that women can be supported across the entire country. A comprehensive exit strategy should be enacted by the Government in cooperation with state-funded frontline agencies. (See Annex at end of document for broad exit strategy)

## Conclusion

The legislation under review has been in operation for a very short time, and we welcome the opportunity to comment at this early stage. We hope that the operation of certain elements can be improved in relation to the enforcement of the law and to public awareness which is currently very low. This will allow for greater success in achieving the objectives of the law of combating trafficking for sexual exploitation and the direct physical and psychological harms of prostitution. The 2017 legislation was one aspect of an integrated strategy that is yet to be fully resourced or realised, but we believe that with further investment and a co-ordinated approach its original objectives can be achieved. We believe that it is possible to effect real change in the landscape of sexual exploitation in Ireland, reducing harms to individuals and reasserting Ireland's commitment to equality and human rights.

Ruhama would be pleased to arrange to meet and further discuss any aspect of this submission with the reviewer on request.

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## Annex

### An exit strategy

In order to ensure the best outcomes for those affected by prostitution and sex trafficking, this legislation ought to be accompanied by a strategic approach to support individuals to exit the sex trade. Research has shown that 89% of those in prostitution want to exit<sup>22</sup>, but many remain trapped due to coercion, violence, immigration status and/or a lack of viable alternatives. The factors that entrap people in prostitution have been well documented<sup>23</sup> and have recently been summarised in the High-Level Working Group *Interim Report on The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV* by Dr. Geoffrey Shannon.<sup>24</sup> Furthermore, research carried out with 114 women in both on-street and indoor prostitution in London, including 7 victims of trafficking, indicated additional barriers, including addiction, criminal records, and the young age of entry into prostitution.<sup>25</sup>

The well-established work of frontline services to support women to exit from prostitution is a critical support to the State's objectives to reduce the scale and harm of the commercial sex trade in Ireland by supporting those who are in prostitution and trying to get out. This exiting support extends also to victims of sex trafficking for whom it is recognised that exiting a trafficking situation is frequently a complex process. This work must continue to be resourced to ensure positive outcomes for some of the most marginalised in our society. There are gaps in the provision of holistic exit supports that must be addressed by the State going forward. We are concerned that those in the most isolated and rural areas face the most barriers in accessing services and exit supports and this ought to be addressed. We welcome funding from the Department of Justice and Equality in 2020 to provide a Caseworker to operate in the Midlands region but this alone is not enough.

This need for statutory supports is referenced by international bodies. In its concluding observations on the Combined Sixth and Seventh Periodic Reports of Ireland in 2017, the CEDAW committee (The Committee on Convention of the Elimination of all forms of Discrimination Against Women) highlighted the need for the Irish State to increase exit resources for women in prostitution.<sup>26</sup> In April 2020, the Organisation for Security and Cooperation in Europe's (OSCE) Special Representative for Combatting Trafficking in Human Beings emphasised the importance of comprehensive exit pathways for all those wishing to exit prostitution, as well as universal access to social protection for all and the regularisation of undocumented migrants.<sup>27</sup>

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<sup>22</sup> Melissa Farley PhD, Ann Cotton PsyD, Jacqueline Lynne MSW, Sybille Zumbeck PhD, Frida Spiwak PhD, Maria E. Reyes PhD, Dinorah Alvarez BA & Ufuk Sezgin PhD (2004) *Prostitution and Trafficking in Nine Countries*, Journal of Trauma Practice. <http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf>

<sup>23</sup> *Poverty and a lack of viable alternatives; Being under third party coercion; violence and control from pimps, traffickers and/or intimate partners; Homelessness and precarious housing and a lack of safe, gender-specific accommodation both emergency and longer term; Immigration status; A lack of formal educational qualifications; Psychological trauma and post-traumatic stress disorder; Isolation – geographic and emotional.*

<sup>24</sup> High Level Working Group (HLWG) (2020). *The Implementation of the Criminal Law (Sexual Offences) Act 2017, Part IV – An Interim Review* <https://www.immigrantcouncil.ie/sites/default/files/2020-01/2020HLWGInterimReportSOA2017ByGeoffreyShannon.pdf>.

<sup>25</sup> Bindel. J. et al. (2012). *Breaking down the barriers: A study of how women exit prostitution* Eaves <http://i3.cmsfiles.com/eaves/2012/11/Breaking-down-the-barriers-a37d80.pdf>.

<sup>26</sup> CEDAW (2017). *Concluding observations on the combined sixth and seventh periodic reports of Ireland* [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/IRL/CO/6-7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/IRL/CO/6-7&Lang=En)

<sup>27</sup> OSCE (2020). *OSCE Special Representative for Combating Trafficking in Human Beings offers recommendations on short-term responses to COVID-19* <https://www.osce.org/secretariat/451186>

Only when demand is adequately addressed, and all those exploited in prostitution have viable alternatives, will there be real 'choice' and the best possible outcomes for women in the sex trade. Increasing resources to support individuals to exit prostitution contributes to fulfilling the Department of Justice and Equality's commitment to gender equality, as well as the State's international obligations to protect human rights and ensure equality between women and men.

France provides an exemplary model to follow in terms of both ending demand for commercial sexual exploitation and providing exit routes for those who wish to pursue them. The 2016 law explicitly criminalising the purchase of sex was accompanied by measures to support women to exit the system of prostitution. This approach is based upon three concise principles. Firstly, prostitution is a form of violence against women. Secondly, it is an obstacle to equality. Finally, it is a violation of human dignity. Uniting statutory services across the country and frontline NGOs, the programme provides a number of measures to individuals in the sex trade, including financial assistance to those who are excluded from social protection, the regularization of immigration status, housing support, and comprehensive prevention measures, including education and training for potential and actual 'sex-buyers.'<sup>28</sup>

We strongly recommend that the State enact a statutory exit programme that would be enshrined in policy. This would complement the work being done by NGOs and state agencies at present to help women to exit prostitution. At present, only formally identified victims of trafficking are granted entry into the National Referral Mechanism which provides them with systematic State support. However, EEA nationals, asylum seekers, those who won't cooperate in a criminal investigation, and all those who do not fit the definition of trafficked, are excluded from this. Based on the experiences of our service-users, and the difficulties they face in exiting, we advocate that the strategy include the following:

1. The regularisation of immigration status for undocumented women in prostitution, and the alleviation of the restrictive rules regarding the right to work for those on student visas and within the asylum seeking system.
2. Alleviation of the barriers migrant women face in accessing social protection that would grant them priority access to safe, secure and affordable housing, and a transitional source of income.
3. Priority access to education and training opportunities to empower women to enter the workforce.
4. Access to justice and expunging historic convictions.
5. Increasing wraparound services across the country including the provision of adequate trauma therapy & trauma informed responses.<sup>29</sup>
6. Develop a programme of financial and social aid.

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<sup>28</sup> CAP International (2017). *The French law of April 13 2016 aimed at strengthening the fight against the prostitutional system and providing support for prostituted persons* <http://www.cap-international.org/wp-content/uploads/2017/04/CAP-brochure-MARS2017-EN-WEB3-1.pdf>

<sup>29</sup> O'Connor, M., and Breslin, R. (2020, forthcoming), *Shifting the burden of criminality: (An analysis of the Irish sex trade in the context of prostitution law reform. Dublin)*, The sexual Exploitation Research Programme, UCD

## Sex-buyers, violence and harm

Women who access Ruhama's services frequently report harassment, verbal abuse and humiliation, physical and sexual violence and assaults and robberies at the hands of sex buyers.

Men who pay for sexual access to women in prostitution are more likely than those who do not to display characteristics of sexual aggression towards women, and are more likely to commit acts of sexual violence. They also display less empathy towards women in prostitution and consider them to be inherently 'different' to women who are not in prostitution.<sup>30</sup>

The psychological and emotional harms of prostitution include (but are not limited to): trauma and post-traumatic stress disorder; disembodiment; dissociation; anxiety; depression; addiction; suicidal ideation; low self-esteem; self-objectification; humiliation. The physical harms include (but are not limited to): sexual assault; rape; physical assault (with or without weapons); torture; STIs; HIV; and increased risks of gynaecological issues including cervical cancer.

Melissa Farley et al. (2003) interviewed 854 individuals currently, or recently, involved in prostitution across 9 countries.<sup>31</sup> Irrespective of the legislative model, they found the following:

- 71% were physically assaulted in prostitution
- 63% were raped
- 89% wanted to leave prostitution
- 68% met the criteria for PTSD (p.34)
- 48% reported drug use & 52% reported alcohol use. In some countries, use of drugs ranged between 70-95% of respondents and alcohol between 71-100% (p.48)

Websites where sex buyers seek out women in prostitution allow them to leave reviews of their experience, where they can comment on her body, her enthusiasm, her willingness to engage in risky sexual acts and whether they felt they were given value for money. These comments give an insight into how sex buyers objectify and dehumanise those whom they pay to access:

*"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 10 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."<sup>32</sup>*

The comments below, taken from PunterNet.com, are graphic but give further insight into the perspectives and attitudes of sex buyers:

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<sup>30</sup> Farley et al. (2015). *Comparing sex buyers with men do not buy sex*: <http://prostitutionresearch.com/wp-content/uploads/2015/09/Comparing-Sex-Buyers-With-Men-Who-Do-Not-Buy-Sex.pdf?fbclid=IwAR3p42lkHqYe1PPsO05jyd1Jaxg84ASwWY6djC7uzSNnXtjHXTf4ibNaqqw>

<sup>31</sup> Farley et al. (2003) "Prostitution and Trafficking in Nine Countries: An Update on Posttraumatic Stress Disorder" *Journal of Trauma Practice* Vol. 2, No. 3/4 pp. 33-74: <http://www.prostitutionresearch.com/pdf/Prostitutionin9Countries.pdf>

<sup>32</sup> Kelleher et al. (2009). *Globalisation, sex trafficking and prostitution: the experiences of migrant women in Ireland*: [https://emn.ie/files/p\\_201211231126542009\\_Trafficking\\_Report\\_ICI.pdf](https://emn.ie/files/p_201211231126542009_Trafficking_Report_ICI.pdf).

*“She is not a raving beauty, but I’ve certainly fucked a lot of less attractive women lol.”*

*“As she has a nice slim body I ploughed on and finished which was a bit more effort than expected with such a nice body. In summary, [...] you need to concentrated on service and giving guys pleasure. Yes, you have the youth and the body... but you seem so disinterested and disengaged those who know good service will look elsewhere.”*

*“I must apologise to [...] for shooting my spunk up her nose. I hadn’t cum for 36 hours and so it was quite a violent spurt, but, game girl that she is, she didn’t complain.”*

*“This lady was born to be a whore. I have seen [her] several times and I am not the only one: she tells she has been fucked by over 250 men in a year and a half of escorting. And she loves it. I have had her do almost all to me [...] fucked her face and spunked on her face while holding her head firmly, dumped my load in her mouth and even had her swallow my cum a couple of times [...] obviously enjoys it given that she goes at a rate of 10-15 loads in her mouth every day.”*

*“The sight of her sour face looking silently at the ceiling during the final missionary position was enough to dampen anyone’s enthusiasm, so I promptly called it quits, dressed and left.”<sup>33</sup>*

In contrast to the backgrounds of vulnerability and impoverishment that women in prostitution come from, those who pay for sex in Ireland are overwhelmingly middle-aged, middle-class men in relationships with a disposable income. This is indicative of the vastly unequal power dynamics that exist between sex buyers and women in prostitution. Prior to any change in legislation, almost half of sex buyers said that they would not consider reporting suspected cases of third-party exploitation to the authorities, while 33% did not answer this question. This is despite approximately one quarter of buyers reporting suspicions of third-party exploitation. Buyers listed their most effective deterrents as being the risk of arrest, conviction and public exposure. A large fine was also listed as a deterrent.<sup>34</sup>

According to a nationally representative Red C survey carried out in 2019 to inform the *We Don’t Buy It* campaign indicated that 6% of Irish men have paid for sex. In 2015, 8% of men said that they had paid for sex. Although a margin of error must be taken into account in this case, it is heartening that the number is trending downwards. Further awareness raising and effective implementation of the legislation would help ensure the continuation of this trend.

### **Trafficking for the purpose of sexual exploitation**

Globally it is understood that the trafficking of human beings is an enormous and growing problem. Trafficking for the purposes of sexual exploitation is highly gendered with women and girls constituting 94 per cent of all detected victims.<sup>35</sup> Moreover, sexual exploitation is the predominant

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<sup>33</sup> Quotes taken from Senent Julián (2017) *He Who Pays the Piper Calls the Tune: masculinity and sex purchase online - a critical discourse analysis*: <http://digibuo.uniovi.es/dspace/handle/10651/43458>.

<sup>34</sup> Yonkova & Keegan (2013). *Stop Trafficking! Tackling demand for sexual services of trafficked women and girls*: <http://www.stoptraffick.ie/wp-content/uploads/2013/03/STOP-TRAFFICK-full-report.pdf>.

<sup>35</sup> UN Women (2020) *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, p.6 Available: <https://www.unwomen.org/en/digital-library/publications/2020/08/policy-brief-covid-19-and-conflict>.

form of trafficking and 72 per cent of all victims identified worldwide are female.<sup>36</sup> This year Ireland received its lowest score from the US State Department's 2020 *Trafficking in Persons Report*, being downgraded to the Tier 2 watch list.<sup>37</sup> This puts us among the worst three performing countries in Europe when it comes to our approach to the crime of trafficking in human beings. While the Criminal Law (Sexual Offences) Act 2017 does not have a direct role in the prosecuting of traffickers, it was the intention that it would make Ireland a hostile market by reducing the demand for the purchase of sexual access.

Victims of sex trafficking are exploited in locations across the country, in every city, town and village – as evident in the broad range of locations where women are advertised for sexual services online and from direct feedback from our service users. The Irish sex trade is highly mobile and women are regularly moved around the country by their pimps and traffickers. This helps traffickers to avoid detection by authorities and prevents victims from putting down roots and establishing any type of a support network in communities. Crucially, this movement also fills the demand from sex buyers around the country for 'new' women.

It is a false dichotomy to separate prostitution and sex trafficking. The inextricable nature of prostitution and sex trafficking is evident in Ireland when taking into account the vast overrepresentation of migrant women and girls from impoverished backgrounds in the Irish sex trade. As stated by Sigma Huda, former UN Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children:

*"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."<sup>38</sup>*

The mere existence of a commercial sex trade means that there will be a need for a constant supply of women and girls to fulfil the demand of 'buyers.' There will never be enough people willing to enter the sex trade from a position of unconstrained choice to meet this demand. Therefore, the most vulnerable women and girls then end up at risk. Human trafficking is inevitable in the sex trade; it is the context in which sex trafficking occurs. Distinctions between 'forced' prostitution and free are dangerous – they can be used to legitimise and normalise the overall exploitation inherent to the sex trade. Human trafficking represents the extreme end of the spectrum of violence and harm that already exists in prostitution.

The *Irish Times* article of July 30<sup>th</sup>, 2020 marking World Day against Trafficking details the experience of 'Laura' who was trafficked into prostitution initially in Holland and then Ireland where she was prostituted in the sex industry for five years.<sup>39</sup> Laura (Ruhama service user) has now exited that life through our help and is in university in Dublin, but of her time trafficked in prostitution she said 'I lived in fear and darkness, not just for myself but for my kids back home. I was a broken person.' I

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<sup>36</sup> UN Women (2020) *Addressing Emerging Human Trafficking Trends and Consequences of the COVID-19 Pandemic*, p.5 Available: <https://www.unwomen.org/en/digital-library/publications/2020/08/policy-brief-covid-19-and-conflict>.

<sup>37</sup> US Dept of State (2020) *Trafficking in Persons Report*, Available: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.

<sup>38</sup> Sigma Huda (2006). *Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children*, <https://www.refworld.org/docid/48abd53dd.html>.

<sup>39</sup> Pollak, S, *Irish Times*, 30/07/2020 *Human Trafficking: I lived in fear...I was a broken person*.



*did not want to do anything that would annoy the smuggler, I was scared that if I tried to leave he would attack my family'.<sup>40</sup>*

Very many women affected by the sex industry have similar tales to tell. In our annual report 2018 we highlighted that 'the global epidemic of human trafficking for the purposes of sexual exploitation is now one of the most profitable criminal activities and has infiltrated every corner of Ireland'<sup>41</sup>, we worked with 116 victims of sex trafficking, from 30 countries in 2019.<sup>42</sup> Trafficked persons and others who have escaped this life tell of the enormous toll it has taken on their physical and psychological health. We see this legislation as one essential element in an array of supports that will allow women to really choose to avoid the psychological and physical harms endemic in prostitution.

In Ireland at present, only those who are identified by the State as victims of trafficking are entitled to systematic statutory supports including housing, temporary regularisation of immigration status, and legal support. However, this does not go far enough. Only non-EEA citizens who cooperate with a criminal investigation are eligible for identification. This excludes EEA citizens, including Irish citizens, and all those who, for myriad reasons, would prefer not to pursue a criminal investigation into their trafficking situation.

The needs of all in prostitution – including those who are trafficked and those who are not – frequently overlap. Frontline agencies working with women in on-street prostitution, indoor prostitution and victims of trafficking have commented on the notable similarities in the experiences and support needs of all involved.<sup>43</sup> It is therefore unhelpful to create a false dichotomy between the needs of identified victims of trafficking and all others in prostitution. Prostitution is exploitative and harmful, regardless of the circumstances that drive women into it. Exiting prostitution is a complex, often long, and non-linear process – and a choice that should be offered to all those subjected to commercial sexual exploitation.

Formal identification and entry into the National Referral Mechanism (NRM) is dependent on victim cooperation with law enforcement – many victims of trafficking are understandably reluctant to engage with the Gardaí. Control and coercion, fears of repercussion for victims and their families, violence and threats of same, debt bondage, fear of authority, fear of deportation, social and geographic isolation, and other factors prevent many from coming forward, and thus they are then excluded from systematic State protection and assistance through the NRM. We recommend developing a new multi-stakeholder identification mechanism which includes civil society, and does not rely on cooperation with the Gardaí.

Victims of trafficking for the purpose of sexual exploitation are frequently housed in Direct Provision accommodation centres which are completely unsuitable due to the conditions, risk of re-traumatisation and risk of re-trafficking or re-entry into the commercial sex trade.<sup>44</sup> We note we are currently working with the Department of Justice and Equality and another NGO to provide an accommodation unit for victims of trafficking, this project is in the developmental phase, it is broadly welcomed and is a very positive step forward.

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<sup>40</sup> Pollak, S, Irish Times, 30/07/2020 *Human Trafficking: I lived in fear...I was a broken person.*

<sup>41</sup> Ruhama Annual Report 2018, P.7.

<sup>42</sup> Forthcoming Ruhama Annual Report 2019, P.12.

<sup>43</sup> See Eaves (2012) and Ruhama's submission to Northern Ireland's 2015 Consultation *Leaving Prostitution: a strategy for help and support*: <https://www.ruhama.ie/wp-content/uploads/Ruhama-Policy-Response-to-Consultation-on-NIs-Strategy-on-Exiting-Prostitution-2015.pdf>.

<sup>44</sup> See for example: <https://www.irishtimes.com/news/social-affairs/women-in-direct-provision-being-pushed-into-prostitution-1.4085828>.