

Labour Party in Northern Ireland submission to NIA Justice Committee

1 November 2013

HUMAN TRAFFICKING AND EXPLOITATION (FURTHER PROVISIONS AND SUPPORT FOR VICTIMS) BILL

Thank you for the opportunity to respond to the Northern Ireland Assembly Committee for Justice in relation to the above Bill.

We note that the proposal in our submission to the consultation on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill [that a Human Trafficking Commissioner should be appointed with power to monitor and oversee the fight against trafficking in Northern Ireland, as well as promoting information and awareness raising campaigns, research and education programmes] has been accepted by Lord Morrow in a new Clause (Clause 16) to ensure there is a National Rapporteur for Northern Ireland.

However, it is disappointing that the numerous submissions opposing Clause 6 (Paying for sexual services of a person) in the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill have not been taken into account.

The Human Trafficking and Exploitation Bill - and Clause 6 in particular - has been criticised by academics, the Police Service of Northern Ireland (PSNI), sex worker rights organisations and the Justice Department itself.

Indeed, the Justice Minister, David Ford, said during the debate of 24 September 2013 that in his view 'there is insufficient evidence to show that criminalising the purchase of sexual services is the best way to proceed in order to reach the shared objective of reducing the numbers trafficked into forced prostitution.'

He added that he was concerned that Clause 6 would in fact result in 'an increase in problems for vulnerable women involved in prostitution; possible costs in justice terms to the flow of information to the police on trafficked victims; inability to enforce; an increase in crime; and a threat to the safety of those in prostitution.'

In our original response to Lord Morrow's consultation, the Labour Party in Northern Ireland said:

Discussion about Clause 6 in Lord Morrow's consultation paper mentions the Swedish experience.

'In Sweden in 1999 they introduced a simpler offence that my Bill also proposes, namely making the purchase of sex an offence. In this context where the law has sent the very clear message of zero tolerance for the purchase of sex, it has had a clear impact on trafficking.'

In fact the evidence from Sweden is ambiguous. The legislation was intended to address the demand side of prostitution to eliminate street prostitution and prevent new sex workers from entering prostitution.

While the number of street prostitutes may have reduced, the law has not reduced the numbers of people involved in prostitution, but has instead pushed it underground. Prostitution has adapted to the restrictions by switching to reliance on mobile phones and the internet. This is consistent with the trend in other Western European and US cities toward conducting most sex-work transactions indoors.

Many organizations take the view that prostitution should be regulated as it is in Germany. This would allow for regular health checks on prostitutes, their clients and their clients' spouses, as well as regular inspections of licensed premises to prevent underage, trafficked or illegal workers. This measure has widespread support, for example In 2005 and 2009, the Royal College of Nursing voted in favour of decriminalizing prostitution to remove the stigma around prostitution, allowing men and women working as prostitutes to access the healthcare they needed.

We maintain this stance and believe that where there is evidence of human trafficking for sexual exploitation, Clause 6 will get in the way of dealing with it. The focus should be on ensuring that the PSNI have adequate powers to deal with sex trafficking and victims who have been coerced into prostitution. Clause six will result in PSNI resources being dissipated in 'policing' consensual sexual activity.

Equally it is necessary to ensure that victims of human trafficking, for whatever purpose, are given sufficient support by Social Services, the police and other relevant agencies.

Lord Morrow argues that similar legislation in Sweden led to a major decrease in human trafficking and street prostitution.

This has been challenged by PSNI Detective Sergeant Philip Marshall, who takes the lead on human trafficking and organised prostitution for the PSNI. DS Marshall chairs the UK Organised Task Force sub group on immigration and human trafficking, which found that at least half of human trafficking is for purposes other than sexual exploitation.

In interviews earlier this year, DS Marshall said that there is already legislation on statute which deals with the purchasing of a sexual service from someone who has been subject to exploitation. He added that the Morrow Bill 'would present difficulties around the criminalisation of anyone purchasing sex. It would be hard to prove, it would be hard to police.'

He also felt that, under UK as opposed to Swedish law, the outlawing of the payment for sexual services could have unintended consequences. In particular he warned that:

1. Those selling sexual services could be guilty of conspiracy to commit a criminal act if purchase was deemed illegal. This would inhibit prostitutes providing evidence.
2. People purchasing sex would be inhibited, by fear of prosecution, from reporting cases where they suspected that sex workers were being coerced. The PSNI has had such reports in the past and he fears that the source could dry up if the purchase of sex became, per se, a criminal act.

Statutory agencies, law enforcement bodies and charities like Barnardos already have a duty to report trafficking concerns to the National Referral Agency.

In 2012, there were 15 referrals originating here, seven of which involved allegations of sexual exploitation. The remainder were for activities like forced labour. That is 1% of the total number of referrals in the UK, although NI accounts for 2.9% of the UK population.

As DS Marshall pointed out, 'This is a serious problem but the figures show that we are not the capital of Europe for human trafficking and we are not the human trafficking capital of the UK either.'

He also argued that Northern Ireland had seen a similar decrease in street prostitution to Sweden. He suggested that the use of the internet and of online escort agencies as discreet ways to contact prostitutes, and not the Swedish legislation, had been the common factor leading to the decrease in on-street activity.

Conclusion

The LPNI stand by the conclusions of our original submission to the consultation on the Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill and repeat:

- Human Trafficking should not become a synonym for prostitution. Not all trafficked persons work as prostitutes. Some are forced into badly paid domestic service, the restaurant trade and farm work.
- Since the Northern Ireland Assembly does not have jurisdiction to offer rights of residence, social security entitlement or citizenship, this means most trafficked persons will be deported. This might prevent victims, who are afraid to return to their country of origin, to come forward, and is an issue that needs to be addressed.
- Clause 6 of the bill, Paying for sexual services of a prostitute, is impractical, unworkable and will only put further pressure on the criminal justice system. It will drive further underground the very people it is designed to help.
- Clause 6 of the bill, making the purchase of sex an offence, should therefore be abandoned in its entirety.