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To: Justice Committee, Northern Ireland Assembly

From: RONALD WEITZER (Professor, George Washington University, USA)

I appreciate this opportunity to provide evidence to the Justice Committee regarding the *Human Trafficking and Exploitation Bill, 2013*. I am an internationally recognized expert on human trafficking as well as on sexual commerce, and I have conducted research and published several analyses of American and European laws and policies with regard to human trafficking as well as international conventions and policy instruments.

I am the co-editor of a special volume, focusing on human trafficking, to be published by the prestigious *Annals of the American Academy of Political and Social Science* (forthcoming, May 2014). The volume contains 13 articles based on empirical research studies of both labor and sex trafficking in different parts of the world.

Clause 6:

If enacted, Clause 6 would provide new penalties directed at the clients of sex workers. It criminalizes the purchase of sexual services from a person over the age of 18.

(1) First, Clause 6 provides **no definition** of “sexual services.” This is a serious deficiency. It does not provide the authorities with the necessary operational definition for enforcing the law, as there is a wide range of activities that could fall under the “sexual service” rubric.

(2) Second, the Explanatory Memorandum to the bill states that the key rationale for Clause 6 is “to reduce the demand for trafficking.” This rationale seems to **conflate** client demand for sexual services with a “demand” for trafficking. There is absolutely no evidence that clients of sex workers are seeking out *trafficked* persons for a commercial exchange. In fact, interview research with the clients themselves has found that they are absolutely *not* interested in the services of someone who has been trafficked or otherwise abused. Criminalizing clients of sex workers is not, despite some activists’ claims, a way to tackle trafficking, but the Bill seems to conflate the demand for sexual services with the demand for trafficking.

A very different approach to targeting trafficking is to focus on **employer demand for cheap labor, of all kinds**, not just sexual services. This would put the enforcement focus on the employers, rather than the customers. It is noteworthy that both the International Labour Organization and the U.S. Government have concluded that labor trafficking is much more prevalent internationally than sex trafficking (labor trafficking is 9 times more prevalent according to the ILO). The ILO report states: “Forced commercial sexual exploitation represents 11 percent of all cases” of forced labor worldwide – one-ninth of

the total.¹ And the U.S. State Department's *Trafficking in Persons Report* for 2010 states unequivocally that "the majority of human trafficking in the world takes the form of forced labor."² Yet, Clause 6 is solely concerned with clients of sexual services.

(3) Third, despite commonly-made claims, criminalizing clients is not an efficient way to tackle human trafficking. Indeed, it can be quite **counter-productive**. Criminalization may make it more difficult to identify and assist victims. In some of the nations where prostitution has been decriminalized and is legally regulated by the government, mechanisms have been instituted to encourage clients to report any suspicions that a particular sex worker has been abused – via telephone hotlines, a section of a client-based discussion board on the Internet, etc. Criminalizing clients makes them less likely to report apparent cases of abuse to the authorities. As the PSNI have noted, client reports to police or other agencies may facilitate the identification of trafficked victims. This source of information would dry up were this Bill to be passed.

(4) Fourth, the 1999 Swedish law (criminalizing clients) was not originally intended to combat human trafficking. Instead, it was a conscious effort by activists and some government officials to criminalize prostitution. Moreover, in contrast to the opinions of individuals who believe that the Swedish approach (criminalizing clients) is successful, the evidence for this proclaimed "success" is thin at best. In fact, the most serious assessments of the Swedish law conclude that the law has been either ineffective or counterproductive. The National Board of Health and Welfare (Socialstyrelsen) has produced three evaluations of the law's effects (2000, 2004, 2007), none of which found evidence that the law had achieved its objectives. The 2007 report found that street prostitution had increased after an initial decrease, and that many customers and sex workers were increasingly using mobile phones and the Internet to set up meetings. Around the same time, only 20% of Swedes believed that the 1999 law had been a success. Claims regarding the law's "success" have been criticized for being speculative, anecdotal, and lacking in solid supporting evidence.³

(5) Fifth, it is important for the Committee to examine a **broader range of nations**, not just Sweden or the UK. There are several frameworks in place around the world for regulating prostitution and for dealing with human trafficking, evidence that may be

¹ International Labour Organization, *A Global Alliance against Forced Labour*. Geneva, 2005, page 12.

² U.S. Department of State, *Trafficking in Persons Report, 2010*. Washington, DC, 2010, page 8.

³ Ann Jordan, "The Swedish Law to Criminalize Clients: A Failed Experiment in Social Engineering," *Issue Paper 4*, Center for Human Rights and Humanitarian Law, American University, Washington, DC, 2012;
May-Len Skilbrei and Charlotta Holmstrom, *Prostitution Policy in the Nordic Region*, Ashgate, 2013;
Susanne Dodillet and Petra Ostergren, "The Swedish Sex Purchase Act: Claimed Success and Documented Effects," Appendix 3 in *Final Report of the International Comparative Study of Prostitution Policy*, Platform 31, The Hague, 2013;
Arthur Gould, "The Criminalization of Buying Sex: The Politics of Prostitution in Sweden," *Journal of Social Politics*, v.30 (2001): 437-456.

consulted to provide a much more comprehensive account of the various ways in which governments are currently regulating sexual commerce.⁴

Other Evidence:

There are many myths about both human trafficking and sexual commerce. Ms Gunilla Ekberg, an opponent of all sexual commerce, recently gave testimony regarding this Bill. In her testimony, Ms Ekberg claims that “97%” of sex workers are victims and that only “a few individuals” sell sex voluntarily. She can make this claim because she considers all prostitution to be inherently “sexual violence” (to use her term), but the claim is absolutely not supported by the evidence from multiple research studies.⁵ We do not know precisely how many individuals sell sex voluntarily, but we do know that the figure is much higher than 3% and also that sweeping ideological generalizations about the homogeneous working conditions and lives of sex workers are fictitious.

Research shows that prostitution ranges over a broad continuum and involves a wide variety of reasons for entry, working conditions, relations with clients, relations with third parties, and workers’ experiences in doing this kind of work. These experiences range from negative to positive to mixed. Moreover, many sex workers work independently (not for pimps); many move from place to place on their own (not because a trafficker controls their mobility); many sell sex part-time and have other jobs as well; many were not abused as children, are not drug-addicted, and did not enter prostitution because they were economically desperate.

Prostitution policies should be based on recognition of the substantial diversity within this sector, not based on simplistic generalizations regarding all or most sex workers. Street prostitution, for example, takes a very different form than indoor prostitution, and it is possible to have a dual, or two-track policy regarding the two types, which I have

⁴ May-Len Skilbrei and Charlotta Holmstrom, *Prostitution Policy in the Nordic Region*, Ashgate, 2013; Ronald Weitzer, *Legalizing Prostitution: From Illicit Vice to Lawful Business* [book based on research in three European nations]. New York University Press, 2012; Gillian Abel, Lisa Fitzgerald, and Catherine Healy, *Taking the Crime Out of Sex Work* [book on New Zealand’s legal regulation of prostitution, passed in 2003]. Policy Press, 2010; Geentanjali Gangoli and Nicole Westmarland, *International Approaches to Prostitution*, Policy Press, 2006; *Final Report of the International Comparative Study of Prostitution Policy*, Platform 31, The Hague, 2013.

⁵ Ine Vanwesenbeeck, “Another Decade of Social Scientific Work on Prostitution,” *Annual Review of Sex Research*, v.12 (2001): 242-289; Christine Harcourt and Basil Donovan, “The Many Faces of Sex Work,” *Sexually Transmitted Infections*, v.81 (2005): 201-206. Ronald Weitzer, “Prostitution: Facts and Fictions,” *Contexts*, v.6 (Fall 2007): 28-33; Ronald Weitzer, “Sociology of Sex Work,” *Annual Review of Sociology*, v.35 (2009): 213-234; Ronald Weitzer, “The Mythology of Prostitution: Advocacy Research and Public Policy,” *Sexuality Research and Social Policy*, v.7 (2010): 15-29.

advocated for the United States.⁶ This is just one example, however, of the need to firmly ground laws and public policies in concrete social science evidence rather than the claims of partisan activists.

The same points can be made regarding policies on human trafficking. The vast majority of media coverage and public policy debate has focused on sex trafficking exclusively, despite the fact that labor trafficking is a much larger social problem internationally. It is crucial that new anti-trafficking laws be evidence-based and properly focused on the occupational arenas in which trafficking most frequently occurs, in accordance with proposals advanced in some leading scholarly assessments.⁷ Such arenas include agriculture, manufacturing, fishing, domestic service, mining, and other types of work. The U.S. Government and various international agencies (ILO, IOM, United Nations) have recently begun to focus more attention, resources, and enforcement activities on combating trafficking and abuses in these spheres of labor, a shift that might be appropriate within the United Kingdom as well.

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⁶ Ronald Weitzer, "Prostitution Control in America: Rethinking Public Policy," *Crime, Law, and Social Change*, v.32 (1999): 83-102.

⁷ Galma Jahic and James Finckenaue, "Representations and Misrepresentations of Human Trafficking," *Trends in Organized Crime*, v.8 (2005): 24-40;
Sheldon Zhang, "Beyond the 'Natasha' Story: A Review and Critique of Current Research on Sex Trafficking," *Global Crime*, v.10 (2009): 178-195;
Sheldon Zhang, "Measuring Labor Trafficking," *Crime, Law, and Social Change*, v.58 (2012): 469-482;
U.S. Government Accountability Office, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad*. Washington, DC, 2006;
Ronald Weitzer, "Sex Trafficking and the Sex Industry: The Need for Evidence-Based Theory and Legislation," *Journal of Criminal Law and Criminology*, v.101 (2011): 1337-1370.