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The Committee Clerk,
Room 242, Parliament Buildings,
Ballymiscaw, Stormont, Belfast BT4 3XX

Dear Lord Morrow and Members of the Justice Committee of the Northern Ireland Assembly

Re: The Human Trafficking and Exploitation (Further Provisions and Support for Victims) Bill

Thank you for allowing us the opportunity to comment on this proposed legislation.

SCOT-PEP is a sex worker-led organisation that campaigns for the rights (including labour rights) of sex workers throughout Scotland. Our organisation is comprised of current and former sex workers, and allies. Those of us with sex working experience have worked in many sectors of the industry, and from many perspectives: many of us are migrants, some are British; many of us work (or have worked) in criminalised conditions - for example on the street, or in working flats - and we've all worked for different reasons, at different times in our lives: to support our families; to support our drug use; for the flexibility; to fund our education, or simply because there has been no other work available, and we need to pay our bills.

What unites everyone within SCOT-PEP, with all our divergent experiences, is the knowledge that sex work is work; that sex workers are best served by a legal system that recognises them as workers and as such endows them with labour rights (as in New Zealand); that sex workers are vulnerable to violence and exploitation because they currently work in conditions that criminalise and stigmatise them, and those associated with them, and that sex workers are the experts on how to make the industry safer and fairer - most fundamentally, that sex workers can speak for themselves.

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We wish to restrict ourselves to commenting upon Clause six of your proposed Bill. Our comments on Clause six follow. We have structured our comments into subsections; first demonstrating that the law criminalising clients, as implemented currently in Sweden, cannot be demonstrated to have achieved its aims, either in reducing the number of sex workers, or in reducing the number of purchasers of sex. We have then gone on to demonstrate the substantial evidence base suggesting that the law to criminalise clients has had numerous negative societal effects, including increased risk of violence against sex workers, increased difficulty for the police in locating trafficking victims or prosecuting traffickers, and an increased risk to public health (particularly as regard to HIV transmission). We conclude our remarks by highlighting the numerous international bodies that support the decriminalisation of sex work, and that specifically have highlighted laws that criminalise clients as dangerous, harmful and misguided.

The Swedish law criminalising clients has not achieved its own basic aims: the Swedish government cannot show that the sex purchase act has reduced the number of sex workers, or clients.

There is no evidence showing a reduction in *clients* as a result of the law.

- “The law has been enforced almost entirely against clients of street-based sex workers but *the government does not have any evidence of a decrease in sex buyers since the law went into effect*. They do not know how many men were soliciting on the street before or after the law. They do not know if men moved from the streets to indoors and on line, or out of the country. *They have not collected such data and so cannot prove any success in achieving the primary goal of the law.*” (Jordan, 2012, 4) We find it remarkable that the Northern Irish Assembly is considering legislation for which the evidence-base that would show the success or failure of the law - on even its own terms - is non-existent.
- The Swedish government likes to ‘show’ that the law has had an effect on the number of men buying sex, by citing a survey in which the number of men self-reporting to be clients declined from 13% to 8%. However, as the law is explicitly intended to increase the stigma against clients, it would be *expected* that self-reports of increasingly sexual stigmatised behaviour

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might decline. Self-evidently, this cannot be considered to constitute reliable evidence as to decreasing numbers of men actually purchasing sex.

There is no evidence showing a reduction in the number of sex workers as a result of the law.

- The government does not know whether there is any change in the overall number of sex workers. In 2007 - eight years after the law was implemented – it conceded: “It is difficult to discern any clear trend of development: **has the extent of prostitution increased or decreased? We cannot give any unambiguous answer to that question**”. It continued, “At most, we can discern that street prostitution is slowly returning, after swiftly disappearing in the wake of the law” (Swedish National Board 2007, 63). It concluded that “[n]o causal connections can be proven between legislation and changes in prostitution” (Swedish National Board 2007, 46).
- The number of street-based sex workers has reduced by approximately 50% since the introduction of the law. However, the government has no idea as to whether this reduction is ‘real’ (i.e, those people have ‘exited’) or whether they’ve simply moved indoors to continue selling sex. The Skarhed report states ‘that **the government does not know how many “previous street prostitutes” may have turned to the “internet or alternative method[s] of contact”**’ (Skarhed 2010, 21). It concedes that “it is difficult to determine whether changes in prostitution are as a result of the ban or of other measures or circumstances” (Skarhed 2010, 35). In other words, *the government has no idea as to whether the law has led to a reduction in the number of sex workers.*
- “Claims of reductions in sex workers and trafficking after the Act [to criminalise clients] cannot be substantiated from the National [Swedish] Police Board figures” (South African Commission for Gender Equality report, January 2013, p6).
- In the words of a Swedish sex worker, interviewed in 2011, “you hide on the internet, it’s not visible anymore. It’s not visible. Go out on Malmskillnadsgatan, where it’s the most famous place. Not every night there is someone. Not every minute there is someone there. 24/7 there are

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people on the web. There are people everywhere, but you don't see them. **It's all hidden. 'Cause we don't wanna get caught.'**"

Where the criminalisation of clients has been introduced into law, it has numerous negative consequences for sex workers, trafficking victims, and public health.

Sex workers are at increased risk of violence.

- Numerous studies show that sex workers in Sweden have reported an increase in *fear* of violence as well as **an increase in actual experience of violence** since the introduction of the sex purchase law. (Dodillet and Östergren 2011, 23; Norwegian Ministry 2004, 12 -14; Östergren 2004, 2, 5).
- The official Swedish government position is that the sex purchase law has not produced an increase in violence against sex workers, however, are unable to point to any official statistics to support this. (Jordan, 2012, 10) In the absence of reliable statistics we would argue that the voices of sex workers must be listened to. They are the ones best placed to speak with authority on the consequences of the law and on their experiences of violence and assault.
- One sex worker highlights why the law makes sex workers more vulnerable to violence: "twenty seconds, one minute, two minutes, you have to decide if you should go into this person's car... now I guess if I'm standing there, and the guy, he will be really scared to pick me up, and he will wave with his hand 'Come here, we can go here round the corner, and make up the arrangement', and that would be much more dangerous". (Levy, 2013) **Another sex worker, interviewed by the same researcher, disclosed that she had "lost count" of the number of times she had been raped after the introduction of the law.** She has been forced to see anonymous clients, as they are worried about the legal consequences for them of being traceable. She had never been raped or assaulted in sex work prior to the introduction of the law. (Levy, 2013)
- Academic research and reports by the Swedish and Norwegian police echo the experiences of the sex workers quoted above. The law will force sex workers to move to hidden and therefore potentially more dangerous locations to meet clients. There is reduced negotiation time because

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clients are concerned about being arrested. This means that they are unable to take the time to assess potential risks before going with a client. (Norwegian Ministry 2004, 12 -14; Östergren 2004, 3).

- In a criminalised context the men most willing to accept the risk of prosecution are potentially the more dangerous. (Norwegian Ministry 2004, 12 -14; Östergren 2004, 3).

The law has made it harder for the police to convict traffickers and those who exploit sex workers.

- The Norwegian National Police Board found that the Swedish law has made it harder to gather evidence against individuals who have coerced or exploited sex workers.
- Sweden's National Board of Health and Welfare found that the criminalisation of clients may lead to an increase in exploitation of sex workers by third parties.
- If clients are at risk of arrest and prosecution then they are unlikely to report to police if there is any suspicion of trafficking or coercion. Anecdotal evidence shows that clients play a key role in reporting concerns about trafficking. (Jordan, 2012, 11- 12)
- *The government does not know* whether there has been any change in the number of 'exploited sex workers' between 1999 and 2010, when the Skarhed Report was issued (Skarhed 2010, 29). **It admits that it does not "have completely reliable knowledge about the occurrence of human trafficking for sexual purposes in Sweden"** (Skarhed 2010, 35). This is hardly a ringing endorsement of the law.

Criminalising clients has jeopardised sex workers' ability to access health services and ability to insist on condom use, with negative consequences for the health of sex workers, and public health.

- A study by the Norwegian National Police Board has found that many street-based sex workers compensate for the loss of earnings, as a result of client criminalisation, by not using condoms.

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- In Sweden condoms are used as evidence to prosecute clients, meaning that there is a disincentive among sex workers and clients to use them. (Jordan, 2012, 12 – 13)
- Authorities in **Sweden, notably in Stockholm, refuse to distribute condoms to sex workers**, because they believe this would be “promoting” sex work. The stigma that the Swedish law institutionalises against sex workers can be seen in the comment from the National Coordinator Against Prostitution and Trafficking (previously with the Stockholm Prostitution Unit), who stated, “**if they make so much money, maybe they could buy their own condoms**”. (Levy, 2013, 4 – 5) In this comment, the way that the stigma created by the sex purchase law limits sex workers’ access to basic health services, is clear - with easily identifiable effects on public health. As it happens, **the Swedish government collects no data on sex workers and HIV**, demonstrating the extent to which they care about the issue. However, *in South Korea, where a similar law is in place, incidence of HIV has predictably been shown to rocket.* (NSWP, 2012, 6)

Numerous international agencies have accepted the evidence that we have summarised above, and therefore a) support the decriminalisation of sex work, and b) reject the Swedish model.

- In July 2012 **the Global Commission on HIV and the Law** stated that countries should: “decriminalise private and consensual adult sexual behaviour including voluntary sex work”.
- In October 2013, the **World Health Organization** noted that, ‘the health of sex workers doesn’t happen in a vacuum, and that countries should work towards the decriminalisation of sex work, and the empowerment and self-determination of sex working communities, as a fundamental part of the fight against HIV.’ It highlighted, “the principles that underlie this tool, and the operational approaches it presents, are no less relevant to high-income countries, and should be seen as a minimum global standard”. **The World Health Organization therefore sees full decriminalisation as a minimum global standard.** The report in which these statements were written was co-sponsored by **UNFPA, UNAIDS, and the World Bank**. All of these organisations therefore sign up to these recommendations.

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- In October 2013, **UN Women** affirmed their support of sex workers, stating that “sex work is work, not trafficking”, and writing “**We recognize the right of all sex workers to choose their work** or leave it and to have access to other employment opportunities.” Acknowledging the right of sex workers to choose sex work precludes support of the Swedish model, which seeks to drive sex workers out of sex work against their will, through making sex work intolerably dangerous.
- In 2012, **UNAIDS** issued a resounding destruction of the idea that criminalising the clients of sex workers is an acceptable legal strategy for states to pursue. They write, “**The approach of criminalising the client has been shown to backfire on sex workers.** In Sweden, sex workers who were unable to work indoors were left on the street with the most dangerous clients and little choice but to accept them.” And, “**There is very little evidence to suggest that any criminal laws related to sex work reduce demand for sex or the number of sex workers.** Rather, all of them create an environment of fear and marginalisation for sex workers, who often have to work in remote and unsafe locations to avoid arrest of themselves or their clients. These laws can undermine sex workers’ ability to work together to identify potentially violent clients and their capacity to demand condom use of clients.”

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